

COUNCIL MEETING

JUNE 13, 2012

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Room 201, Lihue, Kaua'i, on Wednesday, June 13, 2012 at 9:38 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kualii
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved to approve the agenda as circulated, seconded by Mr. Chang, and unanimously carried.

MINUTES of the following meetings of the Council:

1. Minutes of the March 13, 2012 Conservation Workshop
2. Minutes of the April 11, 2012 Council Meeting
3. Minutes of the May 9, 2012 Public Hearing
4. Minutes of the May 9, 2012 Special Council Meeting
5. Minutes of the May 23, 2012 Public Hearing

Mr. Bynum moved to approve the Minutes as circulated, seconded by Mr. Chang, and unanimously carried.

Chair Furfaro: We are now going to move to the consent calendar. I do want to let you know that Mr. Hoff wants to give testimony, but then at the last minute he could not make it, so I am going to allow Mr. Mickens to read that testimony. Is there anyone here by raising their hands that would like to speak on the consent calendar or any item on the agenda before we start the meeting? If not, Mr. Mickens you have the floor on behalf of the testimony submitted by Mr. Hoff.

There being no objections, the rules were suspended.

GLENN MICKENS, RESIDENT: Thank you very much, Jay, for your consideration. You have a copy of John's testimony, he really wanted to be here but circumstance did not permit it, so he asked me if I would be kind enough to read this.

"As I witness this mounting and ever growing landfill catastrophic event coming to a head, I find it hard to believe that the Council and Mayor's Office are capable of resolving this health hazard which is approaching us faster every day. The problem is that there is no political will among these governing parties to solve Kaua'i's growing solid waste, garbage, and health problems. Efforts to plan ahead for the relocating and building of a new landfill have gone through four (4) mayors, endless Councilmembers, and yet there is no site chosen or any permitting moving forward. Much less, building a new landfill, there lies the problem. Today's meeting

is about expanding another existing landfill cell for another reprieve for a landfill. Time is running out fast and here we are once again talking not about fixing the core problem, but rather discussing bandaid solutions. The solution is to gather our garbage and make it work for us. Absolutely, shredding is part of that process as Danford Kaeo has stated, as is separation of garbage categories, and the recycling of those particular waste materials into useful products, which means, jobs. To refresh your memories, that is what was offered to Kaua'i in 2008 and snubbed. It may be able to be offered again. Today I suggest that the Council agrees to a gentleman's agreement in allowing Danford Kaeo, if Danford is willing, Steve Hall, and myself to offer a solution to Kaua'i's garbage landfill dilemma to be presented to the Council and Mayor, and to allow it to be voted on right here in this Chamber prior to the State General Election. Upon receipt of this solution to the Council and Mayor, the County of Kaua'i agrees to place this very same solution on the general election ballot for the November 5 election to allow the body politic, we the people, to also vote on this issue. Allow these elections to determine how we move forward with the cooperation of both public and private sectors in resolving our landfill versus recycling issues."

So anyway this is John's testimony, I think this is a very good testimony. I think that, I do not think that there is anybody at this table that does not agree that something has to be done, whether it is keep on pushing the MRF issue, but that again sounds like it is going to be in the (inaudible), so we got to do something immediately. So anyway, thank you again, Jay, for your cooperation in letting me read this. Thank you very much.

Chair Furfaro: Thank you. Is there anyone else in the audience that would like to speak on our Consent Calendar or any agenda item before we start into our meeting? If not, I want to point out that it is my intent to take item C 2012-179 first, I will be turning over this presentation to Councilmember Nakamura. And then for those who are here to do follow-up, it is my intention to accept the Committee Reports CR-PSE regarding the Engineer's Report on the landfill by 12:00 p.m. On that note, Councilmember Nakamura, may I give you the floor?

There being no objections, the meeting was called back to order, and proceeded on its agenda items as follows:

CONSENT CALENDAR:

C 2012-174 Communication (05/22/2012) from the Council Chair, transmitting for Council consideration and confirmation, Council appointee Stephen W. Long – term ending 12/31/2014, to the Kaua'i Historic Preservation Review Commission (Architect): Ms. Nakamura moved to receive the Consent Calendar, seconded by Mr. Chang, and unanimously carried.

C 2012-175 Communication (05/31/2012) from Councilmember Rapozo, transmitting for Council consideration a Charter Amendment Relating to Restricting the Mayor's Power Over Departments: Ms. Nakamura moved to receive C 2012-175 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-176 Communication (06/06/2012) from the Council Chair, transmitting for Council consideration a Charter Amendment Relating to Additional Duties of the County Auditor: Ms. Nakamura moved to receive C 2012-176 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-177 Communication (05/31/2012) from Councilmember Rapozo, transmitting for Council consideration a Charter Amendment Relating to the Preparation of Monthly Financial Statements by the Director of Finance: Ms. Nakamura moved to receive C 2012-177 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-178 Communication (06/07/2012) from Council Chair, transmitting for Council consideration, amendments to Chapter 3, Kaua'i County Code, 1987, as amended, Relating to the Representation of Clients with Conflicting Interests by the Office of the County Attorney: Ms. Nakamura moved to receive the C 2012-178 for the record, seconded by Mr. Chang, and unanimously carried.

Chair Furfaro: Thank you very much. We are back on track and you have the floor Councilmember.

C 2012-179 Communication (05/09/2012) from Councilmember Nakamura, requesting the presence of Mr. Joel Huesby, Owner, Huesby Farms, LLC, to provide an update on the feasibility study for the Modular Multi-Species Processing Establishment: Mr. Rapozo moved to receive C 2012-179 for the record, seconded by Mr. Chang.

There being no objections, the rules were suspended.

Ms. Nakamura: So, let me backtrack and say that last year in our Budget we approved the CEDS package, the Comprehensive Economic Development Strategy package, and part of the funding went to the Kaua'i Economic Development Board, and they oversaw several contracts. One (1) of the contracts at that time, we called it a Modular Slaughter House. So you might be looking at this and saying what is a Multi-Species Processing Facility. Joel will explain that it now has become a much broader facility, and we...KEDB went through a process of looking at possible consultants to do this feasibility study, and selected someone that is very knowledgeable about this subject matter, not only as a farmer himself but someone who goes and consults around the Nation and around the world with these types of facilities. So I really want to thank Joel Huesby for being here, and Sarah Bowen for assisting with this project, and I also want to recognize from KEDB Mattie Yoshioka and Susan Tai, who really are overseeing this contract. So as we did last time with the incubation program, we are now getting the briefing, the results of that feasibility study, and we will just take it from there. Joel.

JOEL HUESBY, OWNER, HUESBY FARMS, LLC: Welcome, it is a pleasure for me to present here. I am a fourth generation organic family farmer from South Eastern Washington State. I have constructed and built my own USDA meat processing establishments currently working with an organization that formed a livestock producers cooperative in North East Washington that is now in

the awarding of contracts following design-build of a multi-species processing establishment up there.

So I would like to begin, before I begin the presentation, with my metaphor rock. It is painted black and it is to represent coal in this case, and you get diamonds and gems from coal, and the only way you get them is through time, pressure, and temperature. There is no guarantee that you can get a gem from that, but that is the only way that that process happens. Each of us has gems that we can offer to this solution. Another aspect of this is that there is many different facets. If you look at this rock, it has a different angle, a different way of looking at it, yet it is the same rock. Each of us brings a different perspective to the problems here of local meats, of food sustainability, of food insecurity on this island, yet it is the same problem, so it also could be the solution to this whole thing. This particular rock has been on my farm for one hundred and two (102) years, but it got to my farm in only a few hours time from western Montana through the Missoula Floods and is what is called an erratic. The idea is that mostly rocks you think of as being place based and they do not move too much, but when the conditions are right, things can move very quickly; this rock moved over six hundred (600) miles in only a few hours, so also what I think what could happen here in this whole case study with mobile meat processing. Lastly, I would like to talk about the idea that this rock also connects us to the land, to our past, to history, and that is through the Polynesian culture, through the paniolo, the traditional cowboys of this island and how that can be brought to the present with what we are about to accomplish here. So with that I would like to pass this rock around and each of us can feel it and be one (1) with the metaphor rock. Not normal I know, but that is okay.

So I grabbed this picture and it is a typical sea scene but if you look closely you might see a couple of faces in it; do you see those faces? Oftentimes I think that the solutions that we need are right in front of our eyes but we just do not see them unless we kind of look at it through a new perspective; that is what I am hoping to offer here, to really empower you to see that everything you need is already right here, you do not need anything basically from the mainland, except maybe me a little bit.

I would like to begin with a recommendation first, and then we can go into some of the details later in this. This recommendation is a three (3) phased approach: Phase 1 – Processing and hot carcass cooler module; Phase 2 – Value added module; and Phase 3 – Slaughter module. Basically it is along the lines of holistic thinking where we begin by addressing the weakest link; the weakest link according to the survey, the livestock producer survey, is carcass cooling and processing. Both slaughterhouses on the island right now, each one (1) individually, if they operated four (4) days a week at fifteen (15) head a day is three thousand (3,000) head, which is the entire island population of cattle. So at the moment we do not need slaughter capacity, what we need is processing and cooling.

So let us start there first, adding in this as we get more proficiency, as we go down the road, as we build excess capacity where they can no longer handle it. Value added is a whole other animal if you will in that so many things could be done primarily with pork, and so particularly with Kaneshiro pork line, that kind of thing adding value to hams, bacon, sausages, multiple ingredient items, ready to eat, and so that would be the second phase, again as proficiencies are addressed. And then I like this quote, and this actually came from Glenn Fukumoto I think in a previous study, if that is his name please correct me, that I read which is – do what

all good business people do to be successful, assume responsibility, accept risk, account for losses, invest profits, and plan for the future; I really like that.

Ms. Yukimura: Before you go on, can you just repeat what you said about the weakest link (stet) in the statistics that you gave, I did not catch that.

Mr. Huesby: The statistics will come a little bit later, so that was...my main recommendation is that we want to address this in phases, and I have some statistics in a later slide.

Ms. Yukimura: Alright. Okay. Thank you.

Mr. Huesby: The main thing is in any sustainability venture like this you have got the triple bottom line, and what is often neglected is the economics part of the bottom line and if it does not pencil, it is not sustainable, right? And if the ranchers cannot make more money then there is no incentive, there is no desire to change their particular habits or what they are currently doing in the industry; so they need to make money at this, and they can based on the economic analysis that I performed or that we performed, and that we used what we believe are conservative numbers. Right now I think is a good time to invest because cattlemen are making money, there is record high prices for livestock on the mainland that also translates to high prices for livestock here, and it is during times when you have excess cash that you can then squirrel away or retain heifers on the island without interrupting too much of your cash flow in your individual ranch business. So what I am proposing is that a quarter, roughly a little bit less than a quarter of the cattle on the island be retained on the island for future slaughter in this new facility, and I would like to see that happening beginning this next month. We do not have to retain five hundred (500) head next month, we just have to begin with ten (10) head a week, forty (40) head next month. We are going to start small, take baby steps and grow into it; this is the message for the cattlemen's meeting I have later this evening. Then that sets phase 1 of having a multi-species processor room and cooler by December 2013, making those animals that are seven (7) months old now twenty-four (24) months old and finished at that time. The safety valve of this or what happens if it drags on longer than this time, we can go to Andrade's, we can go to Sanchez, so we still have contingency plans.

Organizational structure and governance in my opinion is one (1) of the critical pieces and components to making this whole thing happen, because it really is about first who then what? If we do not have the right people and the right organizational structure, I do not care how good your idea is, you have got to have the right people in place. What I am proposing, what we are proposing is a formation of a new association, the Kaua'i Meat Producers Association, and so I am going to call it KMPA. And so it has got a different agenda than the Kaua'i Cattlemen's Association, because we want to be more inclusive of also the hog producers, sheep producers, and poultry, so this is not a cattlemen's thing though the cattlemen are going to use it the most, and that is why we want to form this new organization. We do not want to rock the boat for those things that are already working the way they are right now, so production stays as it is – rancher owned and managed, that is what they wanted. Processing, you leave the existing processing establishments alone, we need them, they need to be a part of the equation, part of the solution. The new processing establishment we are proposing is owned and operated by KMPA and we will get into details about how that will work out financially later. Sales and distribution would be on a commission only basis, and the way that I have tried to set-up this model is that throughout the

entire food value chain everything is performance based and on real time; it has got to be incentivized that way, otherwise you end up creating cultures of dependence; that is just not going to work. We need to run a tight ship that does not have leaks. The feedback loop is created in such a system because if the chef at the local resort is not happy, that can go right straight back to the rancher, the individual rancher, not to some amorphous meat that was produced, but that rancher, that cow, and you need to fix that problem; this is the feedback loop that is important if we are going to aspire to quality and consistency.

Administration within this new organization – what we are proposing is what I want to create in the next round of things is a business plan, is the articles of incorporation and the bylaws for KMPA, that is coming up. There would be a Board of Directors, and that will set the direction for KMPA. Under that is going to be an Executive Committee that really runs the day-to-day, oversees the day-to-day operations of the business of KMPA. It would profit with non-profits like perhaps the KEDB to receive funds, public funds, or it could be through the Garden Island Resource Conservation District (RCD), perhaps, or some other non-profit 501-C3 where funds can be administered and then also accounted for. This whole thing needs to be ran as a business, you are going to have an accountant hired part-time, you are going to have a budget, you are going to look at that budget variance, year-to-date, and for individual line items you are going to see what is out of balance and you are going to correct it. You are going to do that prior to having problems blow out on you. I am recommending that in addition to the general operations accounts, that there are several other accounts set up. Most businesses, including my own starting out did not set-up these other accounts; I think they are critical to the overall success of an organization. The next one (1) would be charity after general operations. I propose that ten percent (10%) of all net income from the establishment goes to charity. That does not necessarily be in cash to youth, to homeless shelters and the like, but it also could be an in-kind product, so this product that may be dated, that is off quality, the seal in the package is broken, these kinds of things. So an in-kind donation could be made. The fact is is that when you give, you receive. And so, I want to build into the very fabric, the structure, the corporate structure of this organization; the fact that we are going to help other people. The next one (1) that I want to put in here is a rainy day fund because the fact of the matter is, crap is going to happen, something will go wrong and Murphy will show up. And so, we are just, we need to set aside as soon as possible four (4) to six (6) months of operational funds for the day that something bad happens, and who knows what it is, but trust me, it will come. And then the last one (1) we want to set-up is capital improvements and maintenance. In addition to just having a depreciation line item in the budget, we want to squirrel away money for perhaps another establishment. Maybe it is on the Westside, maybe we will want to continue increasing our valued added, maybe we want to incorporate a commercial kitchen with this, perhaps we want to add a classroom to this so that we can train the next generation of butchers, maybe we want to add retail space to this, maybe we want to make this into a meeting hall in the evenings for the association or something. So all of these things can come down the road and they come through retained earnings after we have been showing positive cashflow and making a profit. And so we need to squirrel money away for that, that is why I have these four (4) accounts.

Processing overview, well currently there are two (2) slaughterhouses on the island, and in our opinion are key to staying in existence. So any new slaughterhouse that we want to put out, the initiative for this thing cannot, in my opinion, do undue harm to the existing establishments. With that said, their age of

facilities and their management is also getting old or in transition, but a little competition is also key to a healthy industry. We cannot monopolize the system by having only one (1) new fancy establishment.

As I said earlier, the carcass cooling and processing were the weakest links and we will add value added later. The last thing is that we need to create a forage finish program for quality and consistency. This comes back from the marketing survey work that we did, where particularly chefs, restaurants, and resorts love the idea of local meats. Hands down there is no question the demand is out there. The problem is making sure that we get enough quality in to that and they get it time after time. You can sell anyone a steak once, success to is did you sell it to them twice because they were happy with the purchase the first time? So there is a lot of other things and I will just go through a boiler list of those near the end of this presentation about what we want to address, that perhaps through Sarah and Matt Stevenson, along with myself in the next year or two (2), to really dial in the production protocols for getting the quality up there where these resorts go, yes I want it again. Yes?

Ms. Nakamura: Can I just add that in this Budget that the Council approved, that we included the forage finishing study, a year long study to take a look at how do we produce consistent quality beef. That would be a separate piece.

Mr. Huesby: It is integrally important to the whole system.

Processing economic feasibility. So I did an analysis that I do not have in this slideshow presentation, I did not want to dive into the numbers on that. It is available for any of those who wish to have that later. It will be part of the final analysis that will come out next week or week and a half.

Anyone can make projections in these worksheets with hockey stick rose colored glasses projections and make them believable. I am not interested in making something believable; it needs to be achievable. That is really what I try to do. And so, I was very conservative in the numbers that I thought. I would make expenses high for labor for instance, for overhead infrastructure, and be conservative in what I thought people could get from income coming in from retail meat sales. On the value added part there is so many different things you can do in terms of sausages and all of these other things with particularly pork that is kind of like shooting a dart at the wall. It is going to have to be analyzed as we get down the road on a case by case basis for what kind of product lines we are going to develop through our value added module. Clearly there is a need for it and clearly it can make money.

Each of the economic assumption, so we are going to start with processing, processing plus value added, processing value added, and slaughter. We looked at each of those in these four (4) areas – revenue and direct cost, operating cost, capital cost of financing, and total operating projections. When we look at all of those things what we find is that the least profitable right now is the last step that we want to add to this system, which is the step we do not need at this time – that is slaughter. The reason for that is the current slaughter kill fees, when you factor in the labor versus the need to payback the infrastructure investment, does not pencil as well. You have to remember particularly for slaughter that it is high volume-low margin type business. It will be a necessary piece of the pie going forward, but in our opinion, it is not necessary at this time, next couple of years.

So when I talk about modular there is different ways that you can think about modular but my definition of modular is not so much like a container or a trailer house, but basically it is still a stick frame construction over a concrete foundation. But it is designed in such a way that you can add to it. I have simple floor plans here as examples that are not part of this presentation to show you how we can have high adaptability and expandability by designing in these components, rather than by making things quite complex and really rigid initially. We want to have some flexibility in this thing. Most respondents were willing to haul their livestock twenty (20) to thirty (30) miles which suggests that hey a place that is centrally located works for both sides of the island, that is kind of like around here, Kalepa for instance. We have analyzed several other sites including mobile by the way and nobody wanted to do mobile. I had a mobile trailer at home and it just went from my farm to a meat shop in town and it really does not work because what do you on an incomplete kill day? Is everyone going to twiddle their thumbs or drive into town half an hour to go finish processing? So there is some labor inefficiencies that goes along with mobile that we do not recommend. We like the site, the ADC land at Kalepa which is also near the proposed new landfill area. I understand that there may be an environmental assessment, some issues with surface water, there is a reservoir and a couple of rivers nearby that we will have to address to make sure we do not have any runoff issues if that gets approved. We can get a longterm lease in my opinion on something like that so there is some continuity, some stability about this whole thing that would not happen if it was on private ground for instance. You do not know what happens if you get a divorce or somebody dies, kids get it and they do not want to do it, this kind of thing. In my opinion, it needs to be on State land, and that is the best site.

So when we go into getting our grant of inspection for USDA processing establishment through a FSIS, you are going to need a several things. This kind of gets into some details that is a little bit a cart before the horse but gives you an idea of the things that will need to go through and really start that process in the next several months if we are to have the regulatory compliance also approved at the same time that the physical plant is finished. That would be the HASA plans, the SOP's, SSOP's, other supporting documentations that goes along with monitoring instrument calibrations and the like. I have written all this stuff before. Eastern Washington redneck turned dietician and whatever, it is a long way from home at the moment, especially in language like this, but I have done it. And then we need to comply with the Federal regulations and have it properly labeled. So these are things, the hoops that I have jumped before that we will need to go through again here shortly.

For financing, now this is an interesting area because the way I had worked out my economic analysis was that the money that came from the State and possibly also the County in some combination, were low interest fifteen (15) year term loans, say like three percent (3%) or something. The one (1) that I am doing, the \$1.2 million job in Eastern Washington was a zero (0) interest community economic revitalization board loan, a zero interest loan on I think it was twenty (20) years. They are paying it back. With that said I have had other conversations where perhaps this is all almost a slam dunk for a grant because it has been wanted for so long, it is not that much money at \$500,000.00 or \$750,000.00. There are some pros and cons to doing things whether it is by grant or by loan. I have concerns in that we do not want to hurt the other two (2) establishments by making this cadillac facility, but what about them? If you were to take the coin and flip it over for instance and you have a large corporation who has lots of money and can wield its own power because of its access to capital, it is no different when you have access to

State capital. So we need to make a balance here to make sure that the other two (2) establishments are not hurt in this process, but everything is enhanced together. So we are going to walk a fine line when do this and how we determine how money is allocated for this stuff, in my opinion. Again we talked about having all that come through a 501-C3 to the KMPA Board. The other thing that is interesting to me is that...look, on my farm, if it is my own money I have a completely different attitude to how that money is spent, allocated and to profits I get from it than if it is OPM – other people's money. So it is critical that we have the attitude that whether it is grant or zero or low interest loan, that we have that ownership mentality. That whether it is paid back in profits to the shareholders, the owners – in this case back to the community, to the State or the County, that there is an ownership mentality that goes with it.

Marketing overview. The vast majority, in fact it is like ninety-four percent (94%) of the food on this island is imported, is totally vulnerable to natural disasters and global events. Locally grown is huge even on this island. Lots of farmers markets, chefs and grocers want local. If one hundred percent (100%) of the cattle on this island stayed on this island, you would only feed twenty-six percent (26%) of the population; that does not count us tourist. So you are going to be in that medium porter anyways, big time. Ninety percent (90%) of producers were interested in creating a marketing program. This is really critical because most people do not have the time to put in to creating a new brand, it takes a lot to do that. So this is why we think that the Kaua'i Grown brand would be a really good thing to expand from fruits and vegetables that it is right now. The caveat or the addition that I would add to that is that there is also a sticker or something that gives individual ranch identities. So I like the Kaua'i Grown umbrella with whatever ranch it is. That way it gives a sense of pride for that individual rancher, it also gives that personal touch that the person, when you go to eat a fancy meal at one (1) of these restaraunts and stuff, this all came from blah, blah, blah ranch. It was not just amorphous stuff, certified angus from the mainland, generic blah, blah, blah. You put a name, you make it personal, this is all marketing, we can go into marketing later. Anyway, chefs and grocers as I have said are very supportive. We need to have a unified system for quality. The fact is is that there is no USDA grading on the island and there will not be. My meats were never graded and that is a USDA grader actually cost you money. To have meat inspected is free of charge from the government, but not for the grader. So what we are going to do is self police this. We are going to make sure that standards for the Kaua'i Grown program meets certain minimum protocols, select plus, certain carcus weights, certain cutout yields, and the like. If it does not meet that then it cannot be a part of that program or if it is, it goes into the ground into the school lunch program or something else...that is the wrong thing to say.

Chair Furfaro: Absolutely.

Mr. Huesby: School lunch programs really scrape the bottom of the barrell and you do not even want to eat that stuff. But anyway that is another story. Institutional meats are bad. I know too much, my inspector talks too much.

Chair Furfaro: We do not need to know anymore.

Mr. Huesby: Sales, in my way of thinking, the initial sales effort goes towards the restaurants and resorts more so than grocers because the margins are higher because you can deal with one (1) or two (2) restaraunts so the volumes

you need are not as critical as when you go to the grocers which sell a lot more, right? And so that is where our initial sales and distribution emphasis should go.

So, money enters the value chain through a paying, satisfied, and repeat customer, and the less links we can put in this chain the more money goes back to the land, to the producers who have been belly aching because they do not get enough. I would agree with them because I am producer.

Livestock production consideration. So we sent out a survey to about twenty-eight (28) producers electronically through survey monkey, we also handed out in-person surveys, and announcements were made through Matt Stevenson and his extension mail list, as well as Karen Guest and the Kaua'i Cattlemen Association. We got back about fourteen (14) surveys online and a few others on paper copy. According to a table that I created, between \$88.00 and \$485.00, an additional revenue that is over and above selling the cattle off the mainland, including the cost of keeping them here and finishing could be made. And so, I was very concerned that I am just throwing a dart at the wall here and these numbers could not be verified or validated. I asked the producers, and this was a couple of months ago when I was here, I said is there anything wrong with my assumptions? I said poke a hole in it right now, speak or forever hold your peace because I want to know. They said – no – you are spot on, you are correct. I said alright. So if you average that out it is a couple of hundred bucks. More could be made for the cattlemen, and that is also having the butcher making money with benefits and the whole nine (9) yards. What we are taking when we capture value here is getting rid of all that transportation clear from here to my State. A lot of your Hawaiian cattle right here are grazed in my valley in Washington State, my valley. That is a long way for that meat to come back here. So when we take all of that distance and transportation out of it that is the margin that we can keep back here on this island and create jobs. This is really big. Eighty-three percent (83%) expressed a willingness to cooperate with each other, create the local Kaua'i Grown brand, that is really cool. Most of the ranchers already use processing facilities around here, albeit on a small basis, oftentimes custom exempt just for their workers and themselves. Most of them agree the processing infrastructure was inadequate and that they would like some place central. The cost and availability of processing scored the highest among the concerns and I find that kind of odd because there are already two (2) and they are only operating one (1) kill day a week each. So I do not, why not add another day and stuff, I do not get that. Maybe there is some cultural things going on here that I do not understand. Nonetheless, there are some problems and producers have some concerns. What we want to do as we go forward creating this program is to address those concerns. So this livestock production considerations, and these are...the selection criteria that ranchers are going to need to understand, this would also spill over into sheep and pork and the whole nine (9) yards as for getting a quality product. I am just going to, you can read down that list right now, and really this is also for what Sarah, Matt, and I will be doing in the coming year when we talk about creating the Kaua'i Grown protocols. There are certain things that we are going to do to make sure that we have a good quality consistent product that is economically produced.

So what are the next steps, with the County's approval and the confidence of interested stakeholders, we want to form KMPA – Kaua'i Meat Producers Association. We need to write the business plan for it, I would like to have that done by this September, ideally on my next trip back tentatively. We want to create the standards for the Kaua'i Grown program. We want to secure the site, again this would be out in Kalepa if possible. We want to develop and finalize the design, build

the site, floor plans, and construction timeline. I have already got initial documents along those lines right now. We want to obtain the funding for this and financing. That process through the State would mean that we would have to put to them a proposal that they could take before appropriations in next January. So between now and then, we need to have our ducks in a row, show them that we have organized ourselves, that we have created all these other things so that we have a high likelihood of being funded through the State. I do not know where the County would fit into this whole process, so this is another level of conversation we will get in to. We want to execute on the plan and then monitor feedback and make corrections as needed. The one (1) last thing that is not part of these next steps that I want to talk about tonight that is really critical is again back to the first two (2), then what? We will need a leadership team. We will need people who take ownership. We will need people who have integrity. We will need people who have a solid business mind who understand the numbers and the margins, and can get things done. Otherwise, this is all academic, and I am not interested in academics; I am interested in results. Before we go to questions, I would like to conclude with this poem and it is entitled – You Will Do It.

“Somebody said it could not be done, but he with a chuckle replied that maybe it could not, but he would be one who would not say so till he tried. So he buckled right in with a trace of a grin on his face, if he worried he hid it. He started to sing as he tackled the thing that could not be done, and he did it. Somebody scoffed aw you will never do that, at least no one had ever done it. But he took off his coat and he took off his hat and the first thing you know he had begun it. With the lift of his chin and a bit of grin without any doubting or quibit, he started to sing as he tackled the thing that could not be done and he did it.

There are many to prophesize failure, there are many to point one by one, the dangers that wait to assail you, the reasons this thing cannot be done. So just buckle in with a bit of a grin, just take off your coat and go to it. Just start to sing as you tackle the thing that cannot be done, and you will do it.”

Thank you.

Ms. Nakamura: Thank you, Joel. Questions?

Chair Furfaro: I have.

Ms. Nakamura: Council Chair.

Chair Furfaro: I want to make sure I understand the process of...first of all I very much enjoyed the site inspection in Honolulu with you and Sarah, thank you very much for putting that forward.

Mr. Huesby: I learned a lot there too. Thank you.

Chair Furfaro: I want to make sure what we are talking about, establishing a standard for Kaua'i meats that will not meet USDA standards, is that what I am hearing?

Mr. Huesby: No. It is going to be, it is USDA standards in terms of the regulatory process.

Chair Furfaro: Let me restate that – USDA grading. I heard in your presentation that the grading, the stamp approval for marbling, fat content, fat color, is a pretty expensive process, but you are saying right now Kaua'i will create its own standard for grading?

Mr. Huesby: Yes. We will self-police on that front because there is no inspector. You have to go through a training process. There is no grading inspector that is going to come over here; you could not afford it if there was. Those inspectors grade carcasses every fifteen (15) seconds in my County; you cannot afford to have one (1) here. We do not need to grade it that way, we will just need to make sure that we are putting out good quality product and we will create our own standards.

Chair Furfaro: Again, I just raised that question because managing food processing today is, like we said, we will have one (1) kill day for cows, we may have another kill day for lamb, we might have another kill day for pork. But now who assures there is no cross contamination between the products? How does that happen?

Mr. Huesby: That would still be part of the regular inspected process with an inspector on site on kill days.

Chair Furfaro: A USDA inspector?

Mr. Huesby: A USDA inspector must be there every kill day, and in my establishment we would do all three (3) of those livestock everyday all the time. You would do ruminants first, followed by swine last, because that would not contaminate swine, but you do not do swine first, and then you would make sure that you had sanitary clean up of all food contact surfaces – knives, tables, stuff like that.

Chair Furfaro: In our hotels and restaurants here, many of our brands, they do national chain specs to negotiate the best quality beef or pork for the best possible price. How would we break in, in your marketing plan, how would we break in to compete against Hyatt's national chain specs? Sheraton's national chain specs? How would we do it?

Mr. Huesby: The answer to that would be twofold: (1) get their specs and then learn what they are, and then go back and develop a program that meets or especially exceeds them; (2) some of those places are so onerous in trying to meet those specs that guess what, you know what, they are not our customer. If the local resort or the local restaurant wants a product, they will find a way to change the policies, the corporate policies and get the product, provided that it has got quality.

Chair Furfaro: Well you said it – if they choose. That is a big if.

Mr. Huesby: Not everyone will. But remember, and never mind the restaurants and us touristy type people, if every animal stayed on this island you would only feed a quarter of it.

Chair Furfaro: I saw that.

Mr. Huesby: So not everyone has to be our customer; we would like that, but it is not going to happen.

Chair Furfaro: But if we were to expand the meat and the beef market here, obviously too with the kind of cattle grazing we have now, it would require a much larger allocation of our ag land to specific meat products.

Mr. Huesby: It would and actually it would require roughly twice as much if you were retain. With that said we ask producers – do you have additional land available for retaining animals. They said – yes, all of them said – yes. Did they have enough? I do not know. I also put in there a provision to be mindful of the savings account of forage for drought, because you cannot have this thing going along and turn off the cow spickets; it is not a good deal. The other thing is that we can increase productivity again by what we want to talk about in the coming year with management intensive grazing, rotational grazing, getting more mileage from the current resources we already have. So there is a lot of different ways we can go about increasing productivity on these lands because you only have a limited amount.

Chair Furfaro: Well I am just asking you to take a good look at our Important Ag Land Study because it is being developed now as we go forward and you are going to be talking about this over the next year. So I would connect with planning on our IAL Study. Obviously the other question is for the packaging, just on island packaging, this would include some cryovac packaging...

Mr. Huesby: It would only be, yes, vacuum pouch.

Chair Furfaro: Only cryovac?

Mr. Huesby: Only, yes. For a variety of reasons: no leakage, good shelf life, it is the way they are used to handling it; it is a better system.

Chair Furfaro: Thank you very much for a very, very, complete presentation. I just needed to be very direct about some of those questions being considered in your strategic thinking.

Mr. Huesby: Quite alright.

Chair Furfaro: Thank you.

Ms. Nakamura: Councilmember Yukimura.

Ms. Yukimura: It is such a joy to receive a knowledgeable and practical presentation, so thank you very much. I feel like you have given us a really good example of good planning and problem solving, and a really good example of a feasibility study, so thank you very much. I guess my question is about, I think it is your slide 6 about Administration and the organization that you are looking to create. I know that when we first developed KIUC, our Kaua'i Island Utility Corporation or Cooperative, excuse me, we had to do a lot of capacity building because it was a new format, a new context, a new way of doing business on Kaua'i in terms of electrical production and distribution. I am just wondering about what thought you have given to capacity building. You also mentioned the need for a really good leadership team.

Mr. Huesby: Well that is like my numero uno agenda tonight with the Cattlemens and the other livestock producers that have been invited. I think the vast majority of producers do not want a cooperative. I could go either way...

Ms. Yukimura: I am not suggesting a cooperative.

Mr. Huesby: Yes. I could go either way on that, but, and when we talk about organizational structure, I think that we need to balance corporatism with autonomy. In other words, things we cannot do by ourselves but also things we are rewarded for because we did it ourselves. So we are going to walk a very fine line about how we work together but we are still rewarded for doing a good job of finishing those cattle. It is not everybody's cattle, it is my cattle, and that is the money that I got back through the system, that is the kind of organizational structure that I want to set up in this thing. That is the capacity building I am going to try to relay to the people tonight.

Ms. Yukimura: I see.

Mr. Huesby: I have got, there is maybe half a dozen people and the fact is in the world it is changed and influenced by those who bother to show up.

Ms. Yukimura: That is true. I was not at all suggesting a cooperative form, I was just thinking, when you create your organization how do you build the capacity of that organization? I do agree with you that it is a fine line to develop this cooperative, and I am using small "c" approach, but retain the issue of individual effort, and reward, and accountability. I am not presuming any particular structure, and I was just asking about capacity building in general.

Mr. Huesby: I have had this conversation with my team several times which is my biggest concern is that this is a great idea and it is doable. It is a done deal to me. What is not done, to me, is again identifying the leadership team. I have got ideas of three (3) or four (4) people that I know on this island that I think have the leadership intelligence, the business experience, the integrity to actually do it. I am hoping that they will step up to the plate, I am going to cross my fingers tonight as we go forward in this whole thing. It is first – who, then – what? Now I need to identify the who, because we got the what.

Ms. Yukimura: Very interesting.

SARAH BOWEN: JoAnn, I will add to that. For the record, Sarah Bowen. As the association forms and we determine who the leadership team is, I think at that point it will become clear on what types of gaps there are. Then it will be, creating board development and training opportunities and building that into the structure of how the operation is run, and to have continued development is going to be important.

Mr. Huesby: I would like to add to that in that my vision for this board and even for the executive committee under the board of KMPA is that, they do not all have to be livestock producers. I would much rather have a keen mind from this Council here for instance, or from the business community. We can teach you the margins of meat processing and stuff like that, but what I am really interested in is someone who can look at a spreadsheet and manage people; that is the kind of people we are looking for. Whatever industry they come from.

Ms. Yukimura: Thank you. My last question is, on slide 11 you talk about a modular establishment financed by public funds, grants, loans, or a combination. Am I misunderstanding modular? I am misunderstanding modular. I was thinking mobile but that is very different.

Mr. Huesby: This is all place based, it is simply in floor plans that is kind of like leggos, you can just stack these things.

Ms. Yukimura: Expandable over time.

Mr. Huesby: Yes. Or, mirror image the whole thing, this kind of idea. And as we were talking to Ron Kouchi last night about things is that I did not know the political process for allocation of grants or loans. But he said that if you did get it you might have a three (3) year window to implement it. So let us just say that it was \$750,000.00 and that is approved next Spring, February or March. We could start with the first module, processing and cooler, hot carcass cooler, and then add the value added the following year, and then add slaughter the third year. So it is one (1) allocation process of getting proficient, demonstrating positive cashflow, those kind of things.

Ms. Yukimura: Alright. Thank you very much.

Ms. Nakamura: Councilmember Chang.

Mr. Chang: Thank you. Joel, thanks for being here. I also enjoyed the excursion that we took in Honolulu, so thank you, and Sarah. I want to just say first of all, I enjoyed your enthusiasm. I really enjoyed your presentation. You seem like a fun guy to hang out with.

I have a couple of questions, and thank you for answering Council Vice Chair Yukimura's question regarding the leadership ownership team and the person, because I was thinking that it did not really necessarily mean it had to be a hog farmer, or a cattle rancher. It was a business mind out there. I am very interested in a couple of things, number one (1) I am not sure how many of us can make it, where is this meeting tonight?

Mr. Huesby: It is on Rice Street, 4265, it is just one (1) block down and across the street from KEDB.

Ms. Bowen: It is going to be the home of the new Kaua'i Brewery.

Mr. Chang: And what time does that start?

Mr. Huesby: 6:00 p.m.

Mr. Chang: So do you expect to have minutes or report back? Can we get a, because I do not think it will be the same presentation, but do we get a...

Mr. Huesby: It is, it will be influenced more of the cattlemen's perspective, or the producer's perspective, than a larger picture of one (1) here for finance and stuff. Sarah is going to take notes at that meeting tonight.

Ms. Bowen: I will be providing a summary.

Mr. Huesby: But there is no official board, it is not a cattlemen's meeting, it is a community meeting essentially.

Mr. Chang: Because, for those of us that may not be able to make it, it will be very important that we get those, that we get the feedback and the buy in. Two (2) weeks ago we had this feasibility study for our commercial kitchen, for the business incubators, and Chuck Wolfe explained that it is a long process. So many people get enthused right off the get go, but you have to be able to ride this wave sometimes for years before we find results. We know that we are going to get the results, but it is just a matter of people hanging in there and I want to just make sure that we can get a report back from either some sort of commitment, verbal commitment because how does this person get paid? Those are very important things to report back, I think, because that meeting is probably going to be totally different from this meeting because now you are talking to the people that stand to make or break for the ideas that we have.

Mr. Huesby: What I am going to do tonight is I am going to give the "ask". I am going to ask for a commitment, I am going to ask for you to step across the sandline, I am going to ask for you to put your name down and to raise your hand. I am going to ask for a commitment. I am going to put them on the spot. They have been dancing around the fire on this thing for several years, many years. So, it is time to "fish or cut bait," how many metaphors can I use? I am going to ask for that because again, I do not want it to be too academic. It needs to be very practical, feet on the ground, lean into the taller stuff. We need those people and that is what I hope to get tonight.

Mr. Chang: I appreciate you explaining to them that there is a criteria. There is a very, very, strict criteria because it is all about, as you mentioned, you can sell somebody the first steak but are they going to come back for the second, and then the word of mouth. I do believe that if twenty-six percent (26%), I mean we can only feed twenty-six (26%), there are specialty restaurants outside of a resort per se that people are going to actually come to eat the Andrade Beef, the Sanchez Beef, the Shimogawa Beef, etcetera. I think that is very important that they realize right off the get go that you will be supportive, but there is a criteria that can really make or break that specialized restaurant.

Mr. Huesby: The reality is "many the flock, narrow the gate." So we are going to have a gate, I am going to be a gate keeper, and we will make sure that what goes through for quality and consistency aspires to the standards and protocols of the Kaua'i Grown Brand. Everybody will be in love with the idea, but not everyone will make the grade. It is going to have to be that way, we will have to be gentle but firm.

Mr. Chang: My last question, just for curiosity, on page 4 you mentioned and you emphasized – now is the right time to invest while industry profits are high. What makes it now that the industry profits are high?

Mr. Huesby: What is driving that is is that nationally, and Kaua'i cattle prices are tied to the National prices, are record highs at this time. That is because there is record exports going on in the United States, and it is the lowest cattle inventory since the 1940's in eighty (80) years. It is a perfect storm

from that standpoint. Two (2) years, three (3) years ago, the price of cattle of leaner calves off the island on the container ships was sixty-five (65) cents, today it is about a dollar; that is huge, that is a big jump in the last three (3) years. What I am saying is that if you were able to make a living or break even at a living at sixty-five (65) cents and you are getting a buck now, now you can afford to step out, take the risk, retain some heifers or some steers for this program. Before, you were just getting by paying your bills, now you have got a little bit of cushion, let us play the game. That is the opportunity.

Mr. Chang: I understand. Thank you.

Ms. Nakamura: Thank you. Councilmember Bynum.

Mr. Bynum: Thanks for the presentation. I want to start by saying my questions are going to be really naïve because I do not fully understand all of this, so thank you for your patience. Exactly the processing and hot carcass cooler module that is Phase 1, what specifically does that module do?

Mr. Huesby: What it does is it receives slaughtered carcasses, in this case most likely from Sanchez facility, and they are then chilled there. Sanchez does not have any chilling capacity whatsoever. They are chilled there, then those carcasses are broken down into primal, sub-primals, and case ready meat products. Those products are then stored in the finished product cooler, we can have a small administrative office off to the side of it. That is basically about it, and then products ship from there.

Mr. Bynum: I understand...I am a consumer. I know that I can buy local beef at certain stores on Kaua'i. I know that it tastes different, and it is an acquired taste, it is a taste I have acquired and I prefer certain things. But if this was fully realized would this be the same type of beef that you get at the Safeway Market?

Mr. Huesby: You know, I hope not, in my opinion. The fact is on the mainland, of many producers there are fewer stockers that is the four (4) weights to eight (8) weights; the four hundred (400) to eight hundred (800) pounds, and fewer yet finishers is the feed lots is eight fifty (850) to twelve fifty (1,250), so in four hundred (400) pound increments. The reason for that in part is that when you get to the finishing phase, having that plain of game, the nutrition of energy to lay on the marbling and the fat, and then to have that in a consistent flavor profile. Because the flavor of meat is not in the protein, protein has no flavor, it is all in the fat. I, as a mainlander, I am not used to a gamey and grassy flavor. We raise grass fed beef at home all the time. I can tell you that it may be slightly different but it is a very good flavor profile for the kind of forage that I finish on at home. It is the same thing as our milk cow on spring fresh grass. It has got this grassy flavor, and we do not really like it. When June grass comes on that milk tastes great. Same in the fat. What I propose is that the finishing phase on this island may not be by all the producers, I would say not. Maybe by only two (2), or three (3), or one (1) producer who buys the cattle as stocker age, or at finisher age, four (4) weights or eight (8) weights. And then finishes them on a consistent, well-managed, high energy ration, that gives the flavor profile and the marbling that we are going to require and that the chefs want. We do not want any of this gamey stuff. You get these guys used to midwest corn from San Francisco. Well, they come over here, they are going to want to taste something that they are used to. We are just going to have to figure that out. What would be those forages if we did that, well they would

be like sugar cane, sorghum, and corn before it goes into the grain phase. So all those sugars are in the stocks and in the leaves, and so we are going to manage that process that way and schedule our livestock, consumption, and dietary needs with the forage availability right? Most producers will not do that, but this is why we are going to have only one (1) or two (2) finishers.

Mr. Bynum: So the beef I buy at Wailua Country Store or Kojima's, that is finished here on Kaua'i right? And it is...

Mr. Huesby: I am assuming.

Ms. Bowen: Grass finished, yes.

Mr. Bynum: And then, I do not think that everybody knows that the majority of the cows that we see out there are not finished here, they are shipped to the mainland, correct?

Mr. Huesby: Ninety-four percent (94%) are shipped to the mainland.

Mr. Bynum: So if these proposals were fully realized, would we be keeping and finishing all of the beef here on Kaua'i?

Mr. Huesby: That would be our ultimate goal - get rid of that shipping facility, and keep them here.

Mr. Bynum: The last explanation you gave me, I tracked most of it, but basically with this proposal it would have similar taste through the...so we would...

Mr. Huesby: Yes. It does not have to be identical. I like to have...you want to have a flavor of a sense of place, this is a good thing, and seasonality. There is nothing wrong with those things. But you do not want that off flavor, that is taste slightly different - cool.

Mr. Bynum: Right.

Mr. Huesby: Right. So this is the balance.

Ms. Bowen: And Tim, I will add into that too and that those are the kinds of things that we are going to be looking at over the next year in the beef finishing program.

Mr. Bynum: For KMPA, you are talking about grants, or State aid, or some kind of public funding. How much money are we talking about for Phase 1?

Mr. Huesby: For Phase 1, well if it is only Phase 1, a quarter of a million bucks about. Now I try to pad that, I am basing this on Washington construction prices and stuff because I am just talking about minimal stuff here. Although I do not have a really good handle on Hawai'i prices, but I bumped my margins to try to figure that out because things are shipped in.

Mr. Bynum: So KMPA would be a for-profit corporation?

Mr. Huesby: It would be a non-profit.

Mr. Bynum: It would be? That was not clear to me.

Mr. Huesby: It is only a fee for service and all of the revenues generated from the sale of meat goes through KMPA, is administered by KMPA, who pulls out a little bit for the overheads of administering it.

Mr. Bynum: So it is a non-profit?

Mr. Huesby: It goes to the producer. It is a non-profit.

Mr. Bynum: But initially you talked about partnering because it does not exist yet?

Mr. Huesby: Right. Well, in order to get the State funds you have to be a 501-C3.

Mr. Bynum: Right. So you are talking about starters?

Mr. Huesby: This might be an association at least interimly.

Ms. Bowen: Yes.

Mr. Bynum: I just wanted to be clear about that.

Ms. Bowen: Building up to meet the capacity of a 501-C3.

Mr. Bynum: And you mentioned no interest loans. So it could come as grants or it could come as here is the start-up costs, three (3) years no interest, start making principle payments on year five (5). That kind of idea?

Mr. Huesby: That could help a lot too. Yes. Just on the start-up just to make sure that the things cashflow. So eventually as you are getting proficient at it, you might postpone those payments or something like that.

Mr. Bynum: So eventually the money is paid back at zero (0) interest?

Mr. Huesby: That is my goal. Other producers or people if they heard me talking this way at...it would not be a good thing. Everybody likes to get money for free and not pay it back. But I would argue that going back to where is my rock, about time, heat, and pressure, the way you make diamonds and gems is by...you ran a good business and you paid your money back. If it is given to you as a gift, again as I talk about this culture of dependence, you get soft and then you end up with a lump of coal; I am not interested in that. So in my world we want to pay this money back, that money is used to go back into the community and build something new like commercial kitchen incubators, or empower others, or give to people in need; it needs to be run as a business, in my mind.

Mr. Bynum: I think my last question is, it is a key one (1) for me, what I am hearing from the presentation is okay we have done this study, it is feasible, we can do this, and it is time for players to step up and make a

commitment, or let us fold the table and talk about this ten (10) years down the road or something.

Mr. Huesby: Yes. Yes.

Mr. Bynum: Because, as Councilmember Nakamura mentioned, we have already funded kind of the next step. And so if players are not willing to step up and put money in the game, not money, or just energy, time, and effort...

Mr. Huesby: It is game over.

Mr. Bynum: That is...I enjoyed this presentation a lot, and I enjoyed your attitude, and can we get a copy of that poem?

Mr. Huesby: Yes.

Mr. Bynum: Thank you.

Ms. Nakamura: Councilmember Kualii.

Mr. Kualii: Thank you, Councilmember Nakamura. Thank you for being here and for such a thorough and informative presentation. I too found it very easy to follow and to digest because this is clear that this is your life's work, and your passion, and that you know what you are talking about, and that you love what you do. Your enthusiasm is very, very apparent.

My one (1) question sort of has to do with the Administration's slide where you talked about the four (4) separate accounts. One (1) of them you mentioned was a 'Rainy Day Fund.' I thought I heard you say forty-six (46) months of operational...

Mr. Huesby: Four (4) to six (6), not forty-six (46).

Mr. Kualii: Four (4) to six (6). I was thinking forty-six (46) years?

Mr. Huesby: So let us just say that operations cost \$50,000.00 a month, I will just throw a number out. Then you would want a quarter of a million dollars in an account, so if something happened you have the ability to cover it. The last thing you want to do is be putting out fires. If a business is putting out fires, it is not managed properly, then it is going to circle a drain; not going to happen. Rainy Day Fund.

Mr. Kualii: So you had just thrown out that figure of \$50,000.00. Do you have at this point any sense of what the operational budget might be of the organization prior to the facility, and then maybe after the facility?

Mr. Huesby: Let us say that the facility is operating at this interim capacity of five hundred (500) head a year, ten (10) head a week. I am going to make it easy math and say that the wholesale retail weighted average of that meat per steer or heifer is \$2,000.00. So five hundred (500) times \$2,000.00 is one million. So that is the gross revenue that would be generated, that goes through KMPA and back to the producers, or finisher, stocker, producer, and butcher. I propose that the salesperson commission only is on a four percent (4%) basis, and on \$1 million four percent (4%) of that is \$40,000.00. I think for doing that at ten (10)

head a week, because we used to do ten (10) head a week, well we ended up doing twenty (20) head a week about a year or two (2) ago. But just thinking to myself how much time does it take to go knock on a restaurant door, go deliver product, make sure that you followed up and that the orders were correct, and that you did not have to return anything and all this kind of stuff, that it would not take a full-time job to do that. It is only ten (10) head of beef. It is like a two (2) day job. \$40,000.00 ought to cover it. See, so I built that kind of thing into the budget which I do not have in front of you right now. So I lost the question about where was it first?

Ms. Bowen: Operational costs.

Mr. Huesby: Operational costs.

Mr. Kuali'i: Prior to the facility and then with the facility.

Mr. Huesby: Prior to the facility is what is happening right now which is very little. With the facility, operational costs, I do not have those numbers off the top of my head.

Ms. Nakamura: Councilmember Kuali'i we are going to get a copy.

Mr. Kuali'i: Yes. We can get it later.

Mr. Huesby: It is going to be a part of the study which you can get a copy of next week. I have got several spreadsheets and different scenarios, and they are looking at sensitivity analysis – if you add another butcher what does that do? The bottom line stuff like that. But I do not have the number in my head.

Mr. Kuali'i: The last quick thing, I love your metaphor about the rock and you talked about the potential, the perspective, and you passed it around to us. And so you called it coal, and I noticed that it smells like paint and that you painted it black, so is it really coal?

Mr. Huesby: It is not. It is a metaphor rock. I did not have a black rock and so I painted it black to represent coal, and then look at the facets and stuff.

Mr. Kuali'i: Thank you so much.

Ms. Nakamura: Councilmember Rapozo.

Mr. Rapozo: Thank you. So you are right now working with Economic Development? Is that who the lead agency is for the County, as far as the County's side?

Mr. Huesby: Yes.

Mr. Rapozo: And they are active in the meetings and all that you have done?

Mr. Huesby: Yes.

Mr. Rapozo: Best case scenario, should this move forward, in a fully operational facility, what type of job creation are we talking about?

Mr. Huesby: Well initially if it is only, if you are only processing ten (10) head of beef a week you are only looking at two (2) to two and a half full-time equivalent people; it is not a lot. It would be nice to say it could be more but you got to remember when you are inprocessing, the big, expensive processing is labor.

Mr. Rapozo: Right.

Mr. Huesby: More than the infrastructure. So you need to be careful and make sure that, again even on the labor side of things that it is on a piecework basis, not on an hourly basis. I was on an hourly basis and guess what, when you had a light day you know how everything got done at 5 o'clock when it could have gotten done at 2:30? It is funny how it happens.

Mr. Rapozo: That happens here a lot.

Mr. Huesby: So we need to do it on performance basis. With that said, once the facility is fully operational and say like twenty (20) head of beef including slaughter plus value added, so you are looking at probably a dozen people.

Mr. Rapozo: And what would be in your estimation, and I am sure it is part of the business plan, what is the minimum head of cattle or any kind of meat to make this function break even? Do we have enough? If we did ten (10) head a day, is that sufficient?

Mr. Huesby: Ten (10) head a day is quite well and that was with paying back a loan not with a grant. And so, I would think that break even analysis on that was somewhere around six (6) head.

Mr. Rapozo: Six (6) head a day?

Mr. Huesby: A week. A week.

Mr. Rapozo: A week?

Mr. Huesby: Week.

Mr. Rapozo: Processing just six (6) heads of cattle a week would...

Mr. Huesby: I am keeping the cost on this minimal, no fancy cadillac stuff.

Mr. Rapozo: Well we need to be real, we need to be real.

Mr. Huesby: This is true.

Mr. Rapozo: Construction cost is a lot more, labor cost is a lot more. So as we move forward I do not want to sound like the pessimist but I want to...what is that break point? Is it six (6) head? That just seems like wow we could make this work if it is only six (6) heads of cattle. Six (6) head of cattle.

Mr. Huesby: We are still depending on Sanchez to slaughter at that point.

Mr. Rapozo: Right.

Mr. Huesby: So this is just processing and minimal infrastructure to do that.

Mr. Rapozo: Okay. Thank you.

Ms. Nakamura: And at the twelve (12) full-time employees, about how many of head of cattle would you...

Mr. Huesby: That would be like twenty (20) head a week. So that is one thousand. That is still only a third of the total on the island produced annually which is about three thousand (3,000) head, a little over. Realistically will everybody buy in to this system? The answer is no, you are always going to have people shipping.

Ms. Nakamura: And then at some point in time, the ranchers may have higher addition if they can expand the amount of cattle that they have, that could expand their operations as well?

Mr. Huesby: They could expand, again, by better management by finding additional land, by getting other leases on land, and by segregating their cow/calf versus stocker business phases of that, that is correct. What I did not mention in here and maybe should be as a point of mention is the large landowners. There are three (3) or so on the island, particularly Grove Farm. Most of my conversations around here are negative opinions about stuff like that. But the other side of it is that those large landowners also have significant resources that could be grazed; they need to be a part of the equation because you can get let leases from them. The problem is...it is business.

Ms. Nakamura: Councilmember Furfaro had additional questions.

Chair Furfaro: Yes. Thank you.

I wanted to make sure, I am just trying to be realistic about breaking into the hotel-resort market. I do not want to imply that that is going to be an easy market to break in to.

Mr. Huesby: It is not.

Chair Furfaro: It is not.

Mr. Huesby: I am well aware.

Chair Furfaro: I wanted to know, and we talked about you visiting the IAL piece. As we expand we have to have the appropriate kind of vision for grazing versus cultivation of food and so on. But I think this program can work well for what you call a signature product.

Mr. Huesby: Yes.

Chair Furfaro: I think a great model for that is what the Carswells have done out on the North Shore. I think they slaughter every other Tuesday or something of that nature.

Mr. Huesby: About three (3) head a week roughly.

Chair Furfaro: Right. Their product is consumed before midday at the North Shore because they do some force feeding at the end before slaughter and so forth. They get a pretty decent consistency on the expectation of flavor, marbeling, and I think it could be done...I believe they call it Princeville Pride?

Mr. Huesby: I think it is North Shore Beef or something. Now that was combined with Randal Cremer's place too, Jurassic Park I think.

Chair Furfaro: But you have had an opportunity to speak with them about that project?

Mr. Huesby: Oh yes. I hold her in very high regards by the way.

Chair Furfaro: I do too when I can buy her beef but I do not always get there in time.

Ms. Bowen: Jay, let me add in real quickly to that. In the project that we keep mentioning for the finishing program, we are going to be relying on a committee of Kaua'i ranchers and restaurants. Maybe we can get a buyer from the hotels to help advise us as we move forward with the grass finishing program because we are going to be looking for what are the constraints and how can we meet those, what are the constraints of the rancher, what works for them, and yet how can we get them to buy in to meeting these criteria.

Chair Furfaro: There is a culinary association on Kaua'i and I would suggest you try to recruit one (1) of those executive chefs. They set the standard for the buyer, it is not the buyer setting the standard for the food production. Once the executive chef has made the mark on minimum requirements, then the buyer pretty much just buys. I would get someone involved from the culinary association on Kaua'i.

Mr. Huesby: I would agree. I have said this in several different ways and this is just a mirror back to your talk here but we are only interested, in my opinion, in a race to the top, not a race to the bottom. You must aspire to quality, and quality always sells. I could care less about generic or average. I will not, if this is going to be a part of that, I am out of here, I will not do it.

Chair Furfaro: Well, that is why I brought up what Princeville has done, what Princeville Ranch has done with their specialization. We have all seen the school food documents about what is the end product that we do not want.

Ms. Nakamura: Thank you. Councilmember Yukimura.

Ms. Yukimura: Yes, thank you. Even though there is anywhere from two (2) to twelve (12) employees, there is also the value of keeping the money in the economy and the indirect jobs that might come from that.

Mr. Huesby: There is, there is a multiplier effect and you can use different economic analysis for that. But anytime you keep dollars in your local community, those dollars bounce around in that community and the multiplier effect is like four (4) or five (5) times. So it has a huge impact on the local economy, not to mention the overall pride thing, and the marketing for the tourist, and all that kind of stuff. There is a lot more leverage going on here. You might liken it to this pliers for instance, this end of the thing moves a lot, this end moves very little, but the fact is I can do a lot because I have leverage and that is really what we are talking about here.

Ms. Yukimura: And the conversation has focused a lot on cattle, but you did mention that the hog or pig industry and the value added are your second phase...would also have some additional value added if you will or...

Mr. Huesby: A lot, yes. For every person in here there is ten (10) sausages to be made in a variety of flavors and things to do with it. I have been talking with Valerie quite a bit, she is a good friend of mine. Kaneshiro pork has been suffering lately, and the main reason for that is the cost of importing corn from the Mainland. And so because of that their finishing pigs are at slaughter that have carcuses of one hundred ten pounds (110 lbs) when my pigs were one hundred ninety pounds (190 lbs). If you are in the business of selling meat you need your carcus weights up. The answer for me for getting the pork industry alive here again is that we need to go back to these restaurants, grocers, and resorts, and collect all of the food waste. That is what pigs do.

Ms. Yukimura: That is recycling, we do not want it in the landfill.

Mr. Huesby: Yes. We do not want it in the landfill, and as long as we can do it or refrigerate it, or handle it in ways that do not create public health threats or environmental problems then...and I told Valerie that. There are logistic issues to that, do not get me wrong.

Ms. Yukimura: Of course.

Mr. Huesby: I understand. But that is the only way I see a pork program working on this island. Forget midwest corn.

Ms. Yukimura: Well then you need to speak to the Solid Waste Recycling Division because the curbside recylcing is supposed to evolve toward wet recycled and dry recycled in the collection format. The wet recycled was thought to go to composting, so that may be, you might be offering another use. That could be coordinated possibly, although there are issues of contamination and so forth that you would have to address.

Mr. Huesby: You would have to address things.

Ms. Yukimura: Can you also process wild pigs?

Mr. Huesby: Yes. The problem is wild pigs or for instance on the other islands the Axis deer, but the thing about...what they are called are non-amendable species; USDA allows you to process that. You cannot use the same cooler and the inspector now costs money. So all of your domesticated livestock is free for the inspection. When you do a feral pig or a deer, then the inspector costs and you have to have a separate cooling and processing, or you could use the same

processing area, but you have to do extra sanitation things for cross-contamination. It is kind of like we do not want to mess with that right now, maybe later, but not now.

Ms. Yukimura: Okay. Then lastly, two (2) things, the Chair's concern about important ag lands and the competing uses for ag lands are really going to have to be rationalized somehow and we are all trying to figure it out; but that is a concern. If we can use potential pasture land to grow biomass that is going to provide energy is one (1) thing versus, and I do not know how to measure all of that, but I can just see that, the competing issues.

Mr. Huesby: So what I would like to do instead of competing is turning it in to complementary issues.

Ms. Yukimura: That would be wonderful.

Mr. Huesby: The waste of the one (1) is the food of the other.

Ms. Yukimura: Synergy.

Mr. Huesby: So we find ways to work with living systems, incorporate them into their areas of waste stream management where they fit in their life stage, stockers need protein, they are not finished, so we put them under the trees, stuff like that.

Ms. Yukimura: That would be wonderful. My last question is, you mentioned that nationally we have the lowest cattle inventory in eight (8) years?

Mr. Huesby: In eighty (80) years.

Ms. Yukimura: In eighty (80) years?

Mr. Huesby: Since the 1940's.

Ms. Yukimura: What is the cause of that? We would need to be, we would need to know the fluctuations of the industry to a certain extent.

Mr. Huesby: If Kaua'i does its own thing here, who cares about the industry?

Ms. Yukimura: It does not matter. It is like...

Mr. Huesby: It is not our game, we are playing our own.

Ms. Yukimura: I got it. So that is like becoming independent of fossil fuels?

Mr. Huesby: Yes.

Ms. Yukimura: We become independent of the world market for beef.

Mr. Huesby: In so many words. Yes.

Ms. Yukimura: Okay. I understand, thank you very much.

Ms. Nakamura: Councilmember Rapozo.

Mr. Rapozo: One (1) of the things is the local beef, you talked about it earlier, it has a different taste.

Mr. Huesby: Yes.

Mr. Rapozo: That is my favorite beef. I had to acquire a taste for Mainland beef because I was born and raised here. I am hoping that this standard...we do not lose that. That in fact, we are going to retain the local beef characteristic. I mean Sanchez beef, whether it is a plug or not, for me I love his steaks, put them on a grill it is really good. I am just hoping that this, that we are not going to change that or lose that. I think you said that earlier, that you hope it stays. I am concerned that we start changing the standards and then all of a sudden we lose that characteristic of our local beef.

Mr. Huesby: I do not think you will for two (1) reasons: 1) the flavor of the meat comes from the fat, the fat comes from the forage, and the forage comes from the soil, and that is unique to this climate here; that is not going to change; and 2) the other thing that is not going to change is we are not going to be feeding corn fed beef in feed lots on this island, it is not going to happen. The economics will not work; any corn that is around here is frankencorn by Syngenta and do not forget, it is not going to be grazed. We do not need to worry about that, it is not midwest corn that is going to come here. It will be forage finished, we just need to make sure that the sugars in whatever forages we choose – sorgum, sugarcane, corn, these warm seasoned annual grass, you have that flavor profile that is local but not offensive; that is your balance.

Mr. Rapozo: But the challenge is what is offensive to one (1) may not be offensive to others.

Mr. Huesby: You are going to have to shoot in the middle.

Ms. Bowen: Mel, that is exactly why when we work through this program we are going to have a committee of folks that are local and they would be the growers. I think that we are going to be able to really address some of these things. Matt Stevenson with CTAHR Extension Office has been working with the ranchers here on island and Statewide on some tenderness and taste studies, and so we are going to be incorporating the data that we have been collecting.

Mr. Rapozo: I will volunteer for the taste test. Thank you.

Ms. Nakamura: And if Councilmembers have any suggestions on who should be on that committee, maybe we can forward those ideas over to Sarah.

Mr. Huesby: We would love that.

Ms. Nakamura: Any other questions? The next step then is to begin the next phase of the work that does not start until July 1; that is when the funding becomes available. You said that the business plan would happen first, and I think the next time that we will hear from Joel will be when we have a draft business plan, a business plan that you then can brief us on assuming that everything goes

okay tonight and we have leaders that step up and agree that they want to pursue this next phase of work.

Mr. Huesby: Yes. Absolutely. It is based on the assumption that we have the players.

Ms. Nakamura: Right. And so what we will do is coordinate with the Office of Economic Development, and George Costa is also in the audience here, I did not see you earlier, and coordinate with KEDB so that when that business plan is ready, that we will have a briefing.

Mr. Huesby: The other thing that I would like to do at that time is put in the formation of KMPA basically on a parallel timeframe with this. If my tentative agenda is that I come back in September, at that time I would want to have a KMPA Board of Directors in place or the organizational structure whereby we can adopt the business plan. If you do not have an organizational structure, you cannot make decisions. We have to have approvals. That has to kind of come parallel with the business plan.

Ms. Nakamura: So maybe sometime toward the end of the year if we could get a briefing on the business plan and the organizational structure, progress you have made, then I think that will be the next step for us of your interaction with this body.

Mr. Huesby: Okay.

Chair Furfaro: I will be writing to Planning and George Costa to make sure through Economic Development you have access to the draft of the IAL, so you can see our proposed draft of our land management at this point.

Ms. Nakamura: I believe Sarah was also on the technical advisory committee for that IAL study.

Chair Furfaro: Well that is fine if she is available. The reality, it needs to be looked at by him through Economic Development because this is an Economic Development program. I want to make sure you understand where Planning is going.

Mr. Huesby: Okay.

Ms. Nakamura: Thank you very much for being here and for that presentation.

Mr. Huesby: You are welcome.

Ms. Bowen: Thank you.

Ms. Nakamura: Does anyone from the public want to testify? Glenn Mickens? Please come up.

GLENN MICKENS, RESIDENT: Thank you, Nadine. For the record Glenn Mickens. I just have a fast question probably. I thought it was an excellent testimony by Joel, I thought he did a great job of clarifying stuff. I think I heard him say that beef was at an all time high, but all health reports I have seen in

recent years shows that red meat being on the sparingly used list and fish being on the expanded list, should that not mean that the price of beef would be down and not up? I love a good hamburger as much as anybody probably here. I used to eat meat continually when I was growing up when I was in Japan eating that Kobe beef; there is nothing better than Kobe beef. It was hand massaged, it was excellent. Since seeing this health report I have been using fish more and more. So the push to get beef growing on this island, I am not sure, and I think if I heard wrong, but I thought he did say that the price of beef is up. But if they are pushing more and more to stay away from using red meat whether it is pigs or cows or what it happens to be, I would think that it would be dropping the price of this. Anyway, that was basically my question to Joel, but I thought his explanation and everything was excellent. Thank you, Nadine.

Ms. Nakamura: Thank you. Would anyone else like to testify?

MATTIE YOSHIOKA, KAUA'I ECONOMIC DEVELOPMENT BOARD: I have not been here for a while. I am Mattie Yoshioka, Kaua'i Economic Development Board.

The management of the several feasibility studies that you will be hearing today. You have heard the first two (2), the draft of the first two (2), and you will be hearing the next two (2) in the next couple of weeks. We are very pleased with our consultants and the proposed outcome of these feasibility studies. We would like to thank the Council for your continued support, along with the Mayor, and the Office of Economic Development, George Costa. KEDB's main role in this whole thing, overarching role, is for the creation and expansion of jobs here on Kaua'i; we have to keep that in mind. These feasibility studies that are being developed and the next phase that are the business plans will still need to be analyzed, we still need to see what the low hanging fruits are and go from there. This process is not done; it is continuing, it is dynamic. I just wanted to say that that is our overarching role of KEDB, which is the creation, expansion, and diversification of our economy. Again, thank you.

Ms. Nakamura: I just wanted to say, Mattie, that we really appreciate the approach that you have taken and directed the consultants to really go out and not just do it in a vacuum but engage our community in these discussions from the very beginning; that is very much appreciated.

Ms. Yoshioka: I am very pleased at the dynamics that is going on during this past several months. All of our consultants have engaged the community to the fullest extent. I want to just thank them all for doing that.

Ms. Nakamura: Councilmember Yukimura.

Ms. Yukimura: I want to add to Councilmember Nakamura's thanks. You have done such a good job in the selection and the oversight of the consultants, and that has been a part of the quality of the reports that we have been getting back, and the potential now to move ahead in the diversification. We really appreciate your partnership and the way you do your jobs.

Ms. Yoshioka: Well, being a non-profit and outside the government and procurement processes, it makes the procedures and process go along very smoothly and faster, having been in government in the past.

Ms. Yukimura: You are absolutely right about the process, and the capacity, and the quality of the non-profit is really, very good, so thank you.

Ms. Yoshioka: Thank you.

Ms. Nakamura: Chair Furfaro.

Chair Furfaro: Mattie, this is for you too, I do want to thank you again for your organization and office organizing our site inspections. I also just want to thank you, your office, your team, really gives everybody a sense of confidence that we are heading in the right direction, it is much appreciated.

Ms. Yoshioka: I have assembled a great team.

Chair Furfaro: You have.

Ms. Yoshioka: Thank you.

Ms. Nakamura: Thank you, Mattie. Would anyone else like to testify? If not, I will hand this back to the Chair.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Okay. We are going to take a caption break. I do want to say that the caption break will be fifteen (15) minutes due to a little briefing that I need to get, so we have a motion and a second to receive, and we will be on a fifteen (15) minute caption break. Any further discussion before I ask to receive? Yes?

Ms. Yukimura: I guess, Chair, I would just like to thank Councilmember Nakamura for her leadership on these CEDS projects. It is very exciting to see them moving forward effectively.

Chair Furfaro: Yes, I would say that it is to our benefit that the CEDS Program are allowing us to look at other economic options for our County.

The motion to receive C 2012-179 for the record was then put, and unanimously carried.

There being no objections, the meeting recessed at 11:12 a.m.

The meeting reconvened at 11:39 a.m., and proceeded on its agenda as follows:

Chair Furfaro: We are back from recess, and in order to proceed accordingly on our agenda today and allow the Prosecutor's Office to have some time to be in court this afternoon, I am going to ask the County Clerk if we could go into Executive Session now. If after Executive Session the Prosecutor would like to speak or the Office of the Prosecuting Attorney when we come out, they can speak then on Communication 2012-170. Okay?

There being no objections, ES-550 was taken out of order.

There being no objections, the rules were suspended.

AL CASTILLO, JR., COUNTY ATTORNEY: Good morning Council Chair and Councilmembers, Al Castillo, County Attorney. The next matter for your consideration is ES-550.

EXECUTIVE SESSION:

ES-550 Pursuant to HRS section 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session for the Council to consult with the County Attorney regarding a request to the Board of Ethics to investigate whether a violation of the Code of Ethics occurred in connection with the creation and operation of the P.O.H.A.K.U. program and the Finance Department's review of the P.O.H.A.K.U. program and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

There being no objections, the meeting was called back to order and proceeded as follows:

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes?

Mr. Rapozo: I would suggest we also read ES-551 so that we do not have to go through this exercise at a later time.

Chair Furfaro: The reason I only read this one (1) was to accommodate the Prosecutor's Office, but the reality is we only have forty (40) minutes to meet. Al, I will call you back later, although I accept Mr. Rapozo's request, this is the item that I want to take care of.

Mr. Rapozo moved to convene in executive session for ES-550, seconded by Ms. Yukimura.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: I have a question about going into executive session.

Chair Furfaro: About executive session?

Ms. Iseri-Carvalho: Yes.

Chair Furfaro: Only about going into executive session?

Ms. Iseri-Carvalho: Yes.

Chair Furfaro: Yes, go ahead.

SHAYLENE ISERI-CARVALHO, PROSECUTING ATTORNEY: Good morning...

Ms. Yukimura: Excuse me, Mr. Chair? Could I just ask now?

Chair Furfaro: Yes?

Ms. Yukimura: If you are speaking on this issue on the P.O.H.A.K.U. Project, are you waiving all your rights as to...

Ms. Iseri-Carvalho: No, I think you should hear when I speak...

Ms. Yukimura: Well, because you have said you will not testify on the P.O.H.A.K.U. Program...

Chair Furfaro: Hold on one (1) moment please. I will ask the question again, Shaylene, are you only speaking on our move to go into executive session?

Ms. Iseri-Carvalho: That is correct.

Chair Furfaro: Your plan is after we go into executive session to be able to speak on the agenda item C 2012-170?

Ms. Iseri-Carvalho: Yes. Just specifically relates to your question regarding special counsel. I have prepared documents documenting all our communications with the County Attorney's Office with respect to obtaining special counsel; we have yet to obtain special counsel. We have had numerous communications that have gone unresponded to by the County Attorney's Office.

Ms. Yukimura: Mr. Chair?

Ms. Iseri-Carvalho: In light of the question raised by Councilmember Yukimura regarding our intent...

Ms. Yukimura: No, my question was not about special counsel.

Chair Furfaro: Excuse me. This body will follow a procedure set and managed by the Chair. We will let her speak to the question about us going into executive session, that is what we are dealing with.

Ms. Yukimura: Mr. Chair, point of order. The issue is on the P.O.H.A.K.U. project. The Prosecutor has said that she will not answer questions or speak on the P.O.H.A.K.U. project. If she makes testimony, and then we are not allowed to question, it does not make, I mean it seems highly improper. I am trying to understand if her position about speaking on the P.O.H.A.K.U. project has changed because this issue is about the P.O.H.A.K.U. project.

Chair Furfaro: I understand. We will have that in C 2012-170. You will have that opportunity to ask that question. I would like this Council to get briefed by the Attorneys on this behind our executive chambers. If she is speaking only on the rationale of why we are going into executive session, I will accept that. Now if you want to call for a vote of the body to allow her to speak or not before we go into executive session, then ask to call the vote. That is my interpretation right now. You will have an opportunity to speak with her in open session when we come out of executive session.

Ms. Yukimura: Thank you, Mr. Chair. I want to just explain my point of order because she was not speaking about the executive session, she was

speaking about special counsel. I am not, that is why I am wondering, that does not seem in order.

Chair Furfaro: Okay. It does seem in order to you, I am okay with her talking about special counsel.

Ms. Yukimura: Alright. Then I have registered my point of order.

Chair Furfaro: We will register her other question to you when we come back in session if she is waiving her rights to speak about it.

Ms. Yukimura: Okay.

Chair Furfaro: I certainly understand your point. I would like to be briefed by the County Attorney first.

Ms. Yukimura: Yes. Thank you.

Ms. Iseri-Carvalho: May I proceed?

Chair Furfaro: Yes.

Ms. Iseri-Carvalho: As I was answering Ms. Yukimura's question, her purpose of her statement is totally untrue because I did not get an opportunity to speak this morning with respect to that issue. I assume her impressions are from the first, first meeting when we were advised by our County Attorney not to make any statements until special counsel had been appointed. Councilmember Yukimura is well aware of the phrase 'he who represents himself has only a fool for a client.' In light of that fact that we are talking about County liability and the conflict that we had with the County Attorney's Office, I have prepared for the Councilmembers all of the communications with the County Attorney's Office dating back from April 10 all the way until June 7, I believe. I am sorry, today. Dating back to today where we have been denied special counsel. We have not had any opportunity to seek special counsel even despite the numerous amount of correspondence. I would say that there is at least twenty-six (26) communications between our office and the County Attorney's Office asking for the request to have our interest represented and that has been denied despite that fact. However, we are in concurrence with the request by Ms. Yukimura on ES-550, which is requesting...I am sorry, that is the request for special counsel. I believe Ms. Yukimura is requesting that the Council provide approval of her request to the Board of Ethics to conduct an investigation of whether the violations of the Code of Ethics have occurred in connection with the creation and operation of the P.O.H.A.K.U. Program and related matters, despite the fact that we do not have counsel, we concur with that request by Ms. Yukimura. We would also ask Ms. Yukimura, concurrently with that request, and with the rest of the Council that there is a request to have that be expanded to include the inception of the P.O.H.A.K.U. Program, which initially started with Craig DeCosta on the Bad Check Restitution Program. We will make our presentation with respect to that when we return. However, I wanted the Councilmembers to be clear about our Office's position. We have already provided information regarding the P.O.H.A.K.U. Program, which initially started with Craig DeCosta's Bad Check Restitution Program to Gail Ching who is...

Chair Furfaro: I am going to caution you there. Mr. DeCosta is not on the agenda today.

Ms. Iseri-Carvalho: The P.O.H.A.K.U. Program is a program that was initiated with Craig DeCosta's...

Chair Furfaro: The P.O.H.A.K.U. Program is on the agenda, and I am saying to you, if any comparison of about past procurement by previous Prosecutors and so forth, that is not on the agenda today.

Ms. Iseri-Carvalho: Well, we are saying that it is pary, that is the evolution of the P.O.H.A.K.U. Program, and that if that item is not an item that this Council is going to hear, then we request a concurrent agenda item for that information, because this program initiated from that; everybody knows that because we have provided this information.

Chair Furfaro: Your request is so noted.

Ms. Iseri-Carvalho: We will be sending over a request to the Board of Ethics and would ask the County Council to also join the Prosecuting Attorney's Office in making a request to look into ethical violations, as well as criminal violations regarding the Bad Check Restitution Program that initially began or followed...

Mr. Bynum: Point of order, Mr. Chair. I find this highly improper.

Chair Furfaro: I have got this, you heard my message. Mr. DeCosta's issue is not on the agenda today. If you so wish to bring that in, then you make a request through this Office, my Office. I would also like to point out to you that this Council body, we are not the Procurement Office for the Administration of which you are a part of.

Ms. Iseri-Carvalho: Exactly. Well, I do not believe that we are a part of the Administration.

Chair Furfaro: Your procurement comes under your contract; your contract reviews come under the Administration.

Ms. Iseri-Carvalho: That is correct. I would also like you to consider that we have provided the advice from our attorney which was Jennifer Winn, initially, when she was representing us, that this was an Administrative matter and that she felt it was totally inappropriate for the County Council to be considering this.

Chair Furfaro: I will watch for your written communication. I am going to call for the vote on this item right now.

Ms. Iseri-Carvalho: And I would ask that these communications between the attorney be distributed.

Chair Furfaro: I am going to call for the vote right now. You want to distribute that correspondence, you do it through the Clerk's Office, you can do that now.

Ms. Iseri-Carvalho: That would be fine.

There being no objections, the meeting was called back to order and proceeded as follows:

The motion to convene into executive session was then put, and carried by the following vote:

FOR CONVENING IN EXECUTIVE SESSION: Bynum, Chang, Kuali'i, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST CONVENING IN EXECUTIVE SESSION: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0.

There being no objections, the meeting was in recess at 11:55 a.m.

The meeting reconvened at 2:48 p.m., and proceeded as follows:

C 2012-173 Communication (05/01/2012) from Robert Crowell, Chair, Salary Commission, transmitting pursuant to Section 29.03, Kaua'i County Charter, the Salary Commission's Resolution No. 2012-2, relating to salaries of the Police and Fire Chiefs and their deputies, adopted by the Salary Commission on April 23, 2012.

Chair Furfaro: Mr. Clerk, I am going to direct a question to you. The fact of the matter is this piece was transmitted to us on April 23, that means the sixty (60) days would expire on June 23. I would like to ask, since no one (1) was able to respond to us from the Commission to give us an overview, but they did respond to my request for copies of the minutes; I hope that was distributed to the members, Mr. Morimoto had copies, were they distributed? I think he is in his office. To share with you, my request is going to be to distribute the minutes, try a second time to get someone from the Salary Commission here, but to the Clerk's Office I would like to post a special meeting on June 22, which is the last day we can respond to this as a Special Council Meeting. I understand it is a travel day for us as well. The clock is ticking, we did not get any minutes or correspondence in advance, and I just want to know if that is even possible to do an 8:30 a.m. meeting on the 22nd.

Ms. Yukimura: Mr. Chair? Is it possible to do it on the 23rd instead, a regular Council day?

Mr. Bynum: The 20th.

Ms. Yukimura: I am sorry?

Mr. Bynum: The 20th.

Ms. Yukimura: The 20th.

Chair Furfaro: I want to make sure you heard what I said, it expires on the 23rd, many of us will be at the State Conference of Counties.

Ms. Yukimura: On Wednesday?

Chair Furfaro: It expires on the 23rd, I think the 23rd is a Thursday.

Ms. Yukimura: I am thinking next week...

Chair Furfaro: Let me say it again.

Ms. Yukimura: Okay.

Chair Furfaro: The bill came over on April 23, sixty (60) days means it expires on June 23, we have a Council Meeting on the 20th. So that we do not run into a drop dead bill, I am asking if I passed out the minutes to all of you, have we done that yet, Peter? That I would then ask that we have an 8:30 a.m. meeting prior to our meeting on the 20th. On the 20th, in the afternoon, many of us are on a flight to the State Conference of Counties, that way we would deviate from the critical path here. We would do it in an 8:30 a.m. meeting on the 20th. Is that acceptable?

The minutes have been passed out to you folks. Clerk, I would like to also attempt to get someone from the Salary Commission here to answer some questions. I will take testimony today because we have not seen their discussion or their minutes. We would take this action on 8:30 a.m. on the 20th. Members, is that reasonable and acceptable? Is there anyone in the audience that would like to testify on this? Chief are you here for a testimony dealing with this bill? I was not successful in getting a representative from Mr. Crowell or Mr. King or Mr. Finlay here to discuss this with us.

There being no objections, the rules were suspended.

DARRYL PERRY, CHIEF OF POLICE: Actually, all the information is with this body, it is with the Salary Commission. There is not much more that I can say, so I will put it in your hands. This body knows how we feel. When the letter came down from the Mayor, it talked about the economic situation, and he wrote the letter to the Salary Commission. Basically what you are talking about, there is two (2) issues here: 1) Finance; and 2) Economics. When you are talking about finance you are talking about money. When you are talking about economics and the economic climate, what you are talking about is value, how you value what you are looking at. In this case you are looking at the Deputy Chief, the Fire Chief, the Chief of Police, and the Deputy Fire Chief. I am very passionate about this because it is how this County, how this body, and how this Salary Commission values public safety workers. You have all the figures on the inversion, you have all the figures on the other Departments, you have that with you, so I am not clear on the minutes that have to be read, you have that information. I will leave it up to you, Chair.

Chair Furfaro: I am going to say to you, Chief, that you missed part of it. It is also about retention, it is about keeping good people.

Mr. Perry: Absolutely.

Chair Furfaro: Nothing came over to us in the form of a statement, narrative, or minutes on their discussion about these salary issues for the Fire Chief, the Police Chief, and the two (2) Deputies; nothing came, I had to request it. We also made a request to see if any member of the Salary Commission could be available to dialogue with us; no one (1) is available. I think in fairness and due

diligence to the Council, it is only reasonable that we take action on this one (1) week from today, and that we still make the deadline.

Mr. Perry: The only comment I have is that these issues were brought up with the Mayor's Office. It was up in their Office to be signed and forwarded here. Now, the reason why it took so long, maybe that is something the Council can look in to – why was it delayed that long?

Chair Furfaro: Well, you heard me a few minutes ago, even to get a map I had to call. In all fairness to this Council, Chief, we want to make sure that we have done our due diligence, review the narrative of the meeting, and at least try to see if we can have one (1) of the Commissioners here. We will do that next week, we will act then.

Mr. Perry: Thank you, Sir.

Chair Furfaro: Mr. Rapozo, then Councilmember Nakamura, I am sorry, Councilmember Yukimura.

Mr. Rapozo: Chief, thank you for being here today. The original intent for the Salary Commission was because of the inversion. In fact, you had a lot of people in the Departments that were making more money than the Department Head.

Mr. Perry: Correct.

Mr. Rapozo: Hence the study and then the increases in salaries for the Department Heads and the Deputies back in 2007, or 2006, or whenever that was. My question is, and this is of concern to me because recently the Mayor signed an Executive Order that is going to retroactively pay the excluded management personnel in the Fire and Police Departments back to 2009.

Mr. Perry: That is correct.

Mr. Rapozo: That is going to have a tremendous effect on the inversion again. I do not know the numbers and I apologize because I did not talk to you before the meeting, I did not expect you to come up. What does that do to your EM's, your excluded management personnel in relation to your salary?

Mr. Perry: Well, I have the numbers right here.

Mr. Rapozo: I just need a ballpark figure.

Mr. Perry: The ballpark figure is that one (1) of the Assistant Chiefs, at my current salary, will be earning more than \$13,000.00 more than the Chief of Police, and \$20,000.00 more than the Deputy Chief of Police. The other Assistant Chief is about the same. A Captain will be making approximately \$5,000.00 more than the Deputy Chief of Police right now. We are talking about the in-house people that are getting, and they deserve that money, I truly believe they deserve that money. But something needs to be done on the inversion. We are not talking about the other Counties, about how ahead they are, just here.

Mr. Rapozo: I really not concerned about...I am talking about Kaua'i, because now we are worse off now with the recent Executive Order that was

signed, the retroactive pay for 2009, 2010, and 2011 which compounds. So now you are going to be way behind and I am assuming the Fire Chief is going to be the same way.

Mr. Perry:

Correct.

Mr. Rapozo: And I believe, I am not sure how many EM's, I have not looked at the Budget yet, but I have to believe that Battalion Chiefs are EM's, I am not sure if the Captains are EM's, I have to go look it up but there is quite a bit. My concern, and this is really for the Salary Commission to look in to, because now, the inversion issue, we are back to square one again. Now, you have subordinates that are going to make \$13,000.00 were than the Department Head is - incredible. I do not know how to fix that. Even if this salary resolution passes next week, you will still be behind the 'eight ball,' you will still be behind the EM's that work under you.

Mr. Perry: Correct. The difficult part, I know the Chair mentioned it, is succession planning and retention. Those are very hard issues. When I asked Deputy Chief Contrades to be the Deputy Chief, he took a \$15,000.00 cut in pay. That is unconscionable to me for him to do that. He is dedicated to this community, dedicated to the Police Department, he is willing to do that, he is willing to sacrifice. There is an opportunity by the Salary Commission, and the Mayor's Office, and this body to kind of make it right because he will still be behind.

Mr. Rapozo: Why would he not want to step down to be a Captain or an Assistant Chief?

Mr. Perry: He would certainly make a lot of money than he does now.

Mr. Rapozo: The problem lies in again both Fire and Police, when there is a vacancy in a Chief or Deputy Chief position, who in their right mind, and we thank Mike...when Mike took the job, the salary schedules were not the \$120,000.00 or whatever it is for an Assistant Chief. Had that been the case I am not sure Mike, I mean, I do not know, we can speculate all we want. The problem is it is going to be difficult to find people to leave a position of, and the EM's get overtime as well.

Mr. Perry:

Correct.

Mr. Rapozo: So this inversion problem is not going to get fixed if we do not fix it. Now I am really concerned, especially with that recent Executive Order; it is really bothering me

Chair Furfaro: Okay, I want to make it clear here, I do not want to drift off to this Executive Order. This Council only saw the Executive Order ten (10) days ago. This fact of the matter is we just went through the budget process. I know the numbers for three (3) of the four (4) collective positions between Police and Fire on what the difference is in meeting with them. But the reality we are back to the question that we have to convey to the Salary Commission, this is about continuity, this is about retention, whatever the subject of decisions that Mr. Contrades made to elevate his professional opinion, we need to make sure that we got a structure that stays competitive for retention, that is another reason that I am asking for the additional week.

Mr. Perry: The only question I have, if someone from the Salary Commission does not come here with the information that you require, then what happens to the bill? Does it die?

Chair Furfaro: I would like to say, if they do not come over, we will take action, okay? If they do not come over, we will take action. How that vote goes, we need five (5) votes to get it clear. We will take action. This is a very focused Council, Chief. And when we see situations that were just described, we want to make sure that there is an understanding that we need to have a level playing field. I appreciate your understanding. I need the week, I am requesting a week. Now, I have the minutes distributed. Vice Chair Yukimura.

Ms. Yukimura: Thank you, Chief, for being here. This is the first time I am seeing the minutes. I was just scanning it and I have to admit I am not totally familiar on the issues. This salary differential is with overtime? Or, is it just the base pay?

Mr. Perry: No. With the Executive Order it is just the base pay. The base pay for the Assistant Chief will be approximately \$13,000.00 more than the Chief, and about \$20,000.00 more than the Deputy Chief.

Ms. Yukimura: Thank you. Those are very serious differentials. My concern, though, also goes to equity laterally in executive pay. I cannot tell that that was addressed by the Salary Commission.

Mr. Perry: You mean with other Department Heads?

Ms. Yukimura: Yes.

Mr. Perry: That is an issue in itself too. Law enforcement, traditionally throughout the Nation, and you can have somebody do the research, law enforcement is treated differently because we are different. We are not in the office, we carry a gun, we carry a vest, we are out there putting our life on the line. We can take away individual freedoms, we are the most litigious Department in this County and throughout the Nation. So all Departments are treated differently. If you look at any County, you will find Maui, Honolulu, and Big Island, the Chiefs are paid more than any other of their Executive Heads.

Ms. Yukimura: And they are making more than the Mayor or equal to the Mayor?

Mr. Perry: Certainly. In some areas they do.

Ms. Yukimura: The Police Chief is in other Counties?

Mr. Perry: Sure. Yes. In Honolulu the Mayor makes I think \$115,000.00; currently Louie Kealoha makes \$144,000.00.

Ms. Yukimura: I guess I think, I would like to know, I see salary setting as a very complex thing and very important. Are there no other inversions in the County, in the other Departments?

Mr. Perry: You will have to check with them. I am sure there is, but they were probably added overtime to that.

Ms. Yukimura: That is sort of what I would expect the Salary Commission to look at because...and recruiting, whether it is hard for us to get a public engineer for example at the level that is required to get really good people. Those are some of the things that I am hoping the Commission looked at.

Mr. Perry: One (1) thing you have to understand is that as an appointee we do not have the option to earn overtime, whereas the excluded management and others do have that option, it goes towards their benefit. Additionally, if you calculate the \$7,000.00 raise that is proposed, that comes out to eighty cents (\$0.80) an hour for myself...eighty cents (\$0.80) an hour.

Ms. Yukimura: Yes. But you could apply that to the County Engineer that he does not get overtime either right?

Mr. Perry: Sure.

Ms. Yukimura: If you give him \$7,000.00 it would be an eighty cents (\$0.80) an hour probably too.

Mr. Perry: If you apply that to a patrol officer, a PO-7, overtime, if he works 24/7 like we do, he would get paid over \$30.00 an hour, we would get paid eighty cents (\$0.80) an hour.

Ms. Yukimura: Plus your regular pay.

Mr. Perry: Plus his regular pay too.

Chair Furfaro: Let us reach the point here on what I want to do, Vice Chair.

Ms. Yukimura: Thank you.

Chair Furfaro: To the Chief, we are still waiting a summary of the Mayor's Executive Order. I have asked to have it presented to all the Councilmembers, its impact, I hope that happens to us very soon. For this moment I am saying to the members, I am looking for a motion to refer this to a Special Council Meeting, 8:30 a.m., June 20, 2012.

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Nakamura moved to defer C 2012-173 to a Special Council Meeting at 8:30 a.m. on June 20, 2012, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Thank you, Chief. It will be the first item on the 20th at 8:30 a.m. in the morning.

Next item, I see that the Prosecutor's Office is here. I want to go back to that item. I want to make a clear statement here as well. I have asked in the previous meeting that if there is any discussions about the previous structure with the

Prosecutor's Office in comparison to the P.O.H.A.K.U. Program that that gets submitted to me in writing as a new posting, not for activity today.

C 2012-170 Communication (05/17/2012) from Councilmember Yukimura, requesting Council approval of her request that the Board of Ethics conduct an investigation of whether violations of the Code of Ethics have occurred in connection with the creation and operation of the P.O.H.A.K.U. Program and related matters: Mr. Bynum moved to approve C 2012-170, seconded by Ms. Yukimura.

Chair Furfaro: We are going to take a ten (10) minute recess while the PowerPoint gets set up.

There being no objections, the meeting recessed at 3:08 p.m.

The meeting reconvened at 3:22 p.m., and proceeded as follows:

Chair Furfaro: We are back from our recess. Jake, I am going to give you the floor. Again, I just want to make note that you will be given six (6) minutes in your presentation as we already have a motion to approve. You can certainly make your PowerPoint Presentation, but I want to make sure that we do not rehash anything dealing with the previous Prosecutor's Office referencing Mr. DeCosta's diversion programs. I certainly will, if you want me to put it on as an agenda item in the near future, please write to me to that effect. I will give you the floor now.

AL CASTILLO, JR., COUNTY ATTORNEY: Excuse me, Council Chair. For the record Al Castillo, County Attorney. May I have five (5) minutes with the First Deputy and the Prosecutor before he goes on?

Chair Furfaro: I will take a recess and allow you the five (5) minutes if you would like to meet with them, yes.

Mr. Castillo: Thank you.

There being no objections, the meeting recessed at 3:22 p.m.

The meeting reconvened at 3:57 p.m., and proceeded as follows:

Chair Furfaro: We are going to recess from the other agenda item here. Jake, for your information, we are going to start taking care of some other business here. Start from C 2012-180.

C 2012-180 Communication (05/21/2012) from the Director of Finance, transmitting for Council information, the Period 10 Financial Reports – Statement of Revenues as of April 30, 2012, for Fiscal Year 2012, pursuant to Section 21 of the Operating Budget Ordinance (B-2011-732), County of Kaua'i: Mr. Rapozo moved to receive C 2012-180 for the record, seconded by Mr. Kualii, and unanimously carried.

C 2012-181 Communication (05/07/2012) from the Director of Finance, transmitting for Council information the following reports:

- (1) County of Kaua'i Bond Summary of General Long – Term Debt Amount Outstanding as of July 01, 2011;

(2) County of Kaua'i Bond Supplemental Summary of General Long – Term Debt Amount Outstanding as of June 30, 2012;

Excluded County of Kaua'i Bond Supplemental Summary of Long – Term Debt Amount Outstanding as of June 30, 2012: CFD No. 2008-1 (Kukui'ula Development Project) Special Tax Bonds, Series 2012, sold April 25, 2012.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes?

Mr. Rapozo: Is it possible, I know next week's agenda is going to be tight and we are all flying out, I do not have a problem receiving this but I would like a briefing if possible maybe at the next Committee Meeting...

Chair Furfaro: What if we put it at Council in two (2) weeks?

Mr. Rapozo: That is fine.

Chair Furfaro: Okay, let us defer to Council in two (2) weeks.

Mr. Rapozo: That is fine.

Chair Furfaro: Would you make the motion?

Mr. Rapozo: If there is no more discussion.

Mr. Rapozo moved to defer C 2012-181, seconded by Mr. Kualii, and unanimously carried.

C 2012-182 Communication (05/29/2012) from Mel Rapozo, Hawai'i State Association of Counties (HSAC) President, requesting Council approval, pursuant to Section 5 of the Bylaws of the Hawai'i State Association of Counties, Inc., of the proposed slate of officers for Fiscal Year 2012-2013:

- Mel Rapozo (Kaua'i County Council), President
Jay Furfaro (Alternate)
- K. Angel Pilago (Hawai'i County Council), Vice President
Brittany Smart (Alternate)
- Joseph Pontanilla (Maui County Council), Treasurer
G. Riki Hokama (Alternate)
- Stanley Chang (Honolulu City Council), Secretary
Ikaika Anderson (Alternate): Mr. Kualii moved to approve C 2012-182, seconded by Mr. Rapozo, and unanimously carried.

C 2012-183 Communication (05/14/2012) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend an Edward J. Byrne Memorial Justice Assistance Grant (JAG) FY 2012 Local Solicitation Grant in the amount of \$41,491.00, to be utilized to continue the employment of the Full-Time Equivalent Process Server, as well as to provide training to the Kaua'i Police Department, for the period commencing on October 1, 2012 through September 30,

2015: Mr. Bynum moved to approve C 2012-183, seconded by Mr. Kuali'i, and unanimously carried.

C 2012-184 Communication (05/18/2012) from the Civil Defense Manager, requesting Council approval to receive and expend National Oceanic Atmospheric Administration (NOAA) funds not to exceed \$30,000.00, authorized by CFDA No. 11.467, NOAA Award NA5 – NA09NWS46700016, and are managed by their sponsor, State of Hawai'i, Department of Defense, Civil Defense Division, to be utilized for a "Kaua'i Tsunami Evacuation Signage" project: Mr. Kuali'i moved to approve C 2012-184, seconded by Mr. Rapozo, and unanimously carried.

LEGAL DOCUMENT

C 2012-186 Communication (05/23/2012) from the Director, Parks & Recreation Department, recommending Council approval of the following:

- Warranty Deed by Kaua'i Kai Associates conveying to the County Lot B-2, Waipouli, Kawaihau, Kaua'i, Hawai'i, (TMK: 4-4-3-09:41), for use as part of the Lydgate-Kapa'a Shared-Use Path, which includes a utility easement executed between Kaua'i Kai and Kaua'i Island Utility Cooperative.

- Land acquisition cost of approximately \$18,551 (\$11,800 for Lot B-2 (455 SF), \$6,200 for Easement U-1 (266 SF), and \$551 closing costs, including title insurance, escrow, and fees): Mr. Bynum moved to approve C 2012-186, seconded by Mr. Rapozo, and unanimously carried.

C 2012-187 Communication (05/30/2012) from Gary A. Mackler, Acting Housing Director, recommending Council approval of the following:

- Grant of Easement by the County of Kaua'i conveying a Utility Easement situate at Lot 47 (9661 Haina Road), Waimea, Kaua'i, Hawai'i (TMK: (4) 1-2-00807) to Kaua'i Island Utility Cooperative and Hawaiian Telcom, Inc., for utility purposes of the County's Lot Development Program in Waimea: Mr. Bynum moved to approve C 2012-187, seconded by Mr. Rapozo, and unanimously carried.

There being no objections, Mr. Bynum assumed Chairmanship of the meeting.

CLAIM:

C 2012-188 Communication (05/14/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Martha Itamura for damage to her personal property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-188 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Rapozo, and unanimously carried.

C 2012-189 Communication (05/14/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Kaua'i Akinaka & Associates, LTD., for services rendered, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-189 to the County Attorney's Office for review, and schedule an Executive Session briefing with the Council prior

to disposition and report back to the Council, seconded by Mr. Chang, and unanimously carried.

C 2012-190 Communication (05/14/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Kevin Robert Campbell for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-190 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Rapozo, and unanimously carried.

C 2012-191 Communication (05/17/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Waste Management of Hawai'i for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-191 to the County Attorney's Office for review, and schedule an Executive Session briefing with the Council prior to disposition and report back to the Council, seconded by Mr. Chang, and unanimously carried.

Ms. Nakamura: I had similar concerns, and I think a briefing would be appropriate.

C 2012-192 Communication (05/24/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Waste Management of Hawai'i for damage to their equipment, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-192 to the County Attorney's Office for review, and schedule an Executive Session briefing with the Council prior to disposition and report back to the Council, seconded by Mr. Chang, and unanimously carried.

Mr. Rapozo: Mr. Clerk, if you could make a note that C 2012-189, C 2012-191, and C 2012-192, that those claims be referred to the executive session at the next Council Meeting for briefing by the County Attorney? And also, in the case of, well all of them involve Public Works and maybe Parks, just so we can have the Department Heads available if we need them.

COMMITTEE REPORTS:

A report (No. CR-PSE 2012-04) submitted by the Public Safety & Environmental Services Committee, recommending that the following be received for the record:

"PSE 2012-02 Communication (05/25/2012) from Committee Chair Rapozo, requesting the presence of the County Engineer to provide an update on solid waste diversion and the potential alternative method of using municipal solid waste shredding."

Mr. Rapozo moved for approval of the report, seconded by Mr. Kuali'i, and unanimously carried.

A report (No. CR-PSE 2012-05) submitted by the Public Safety & Environmental Services Committee, recommending that the following be received for the record:

"PSE 2012-03 Communication (05/25/2012) from Committee Chair Rapozo, requesting the presence of the County Engineer to provide an update and status regarding the recent sewage spillage affecting the Kalapaki Bay area,"

Mr. Rapozo moved for approval of the report, seconded by Mr. Kuali'i, and unanimously carried.

Mr. Bynum: Councilmember Yukimura.

Ms. Yukimura: I just want to say that Mr. Hoff's testimony earlier this morning was about this committee report; I believe it is about the shredding issue. I just want to make a factual correction to his testimony. He said that the efforts to relocate and build a new landfill have gone through four (4) mayors, which I think counts me. I want Mr. Hoff especially to know that in 1992 when we experienced Hurricane Iniki, that greatly accelerated the need for a new landfill. By 1994 we did open a new landfill with twenty (20) years life. So as far as this Mayor was concerned, we actually sited and built a landfill by 1994.

I also want to say that he proposed this gentlemen's agreement that would come to the Council and Mayor for a vote and then a vote of the people. This would violate County procurement laws, to say the least. It needs to be a competitive process and it is just not possible legally under our rules to do.

Mr. Bynum: Mr. Rapozo.

Mr. Rapozo: Thank you. It was four (4) Mayors, JoAnn. You were five (5) Mayors ago. You forget to count Kaipo. So Hoff is on it.

Ms. Yukimura: Thank you for the correction. That is right. I did forget to count Kaipo.

Mr. Rapozo: The other clarification is what the newspaper printed 'Council Shelves Shredding' or something like that. I had received a few calls and emails. It was never on the agenda for any action; it was just a briefing. So to say that we shelved it is completely inaccurate. It was not a matter up for vote or any kind of determination. I just wanted to put that clarification on the record.

Mr. Bynum: Any further discussion? Mr. Mickens.

GLENN MICKENS, RESIDENT: Thank you, Tim. I have been waiting around all day for this. Thank you. You have a copy of this, of my testimony. Let me please read it for the viewing public.

I believe that every Councilmember is in agreement that as Tim said, we are in a crisis stage with disposing of our solid waste. Mr. Kaeo made an outstanding presentation on how his company could, by shredding and compacting, extend the life of our existing landfill. Though I am no math expert, the numbers and facts that he presented to get his savings conclusion certainly appeared legitimate to me anyway. Certainly as was pointed out by Councilmembers, there are other ways of solving our solid waste problem rather than just by shredding. But, the MRF, as JoAnn was pointing out and recycling solutions are projected to be in 2016 or possibly longer. Whereas, the shredding method as outlined by Mr. Kaeo could start immediately. We have spent years trying to site a new landfill and it appears that we are still years away from finding that location. Thus, it is critical that we extend

the life of "Mount Trashmore" out there until we solve that problem. We are also pumping \$9 million a year into the solid waste program, and anything we can do to lessen that tax burden would be a success. According to Mr. Kaeo, their shredder would achieve eighteen hundred pounds per cubic yard (1,800 lbs/yd³), allowing the landfill to survive forty-five percent to sixty percent (45%-60%) longer. His facts and figures appear to back up what he says. This tractor would certainly be a huge plus for keeping the landfill from filling up faster. Troy said that a shredder would increase operational costs for the County – yes. Upfront this may be true, but each day we keep the existing landfill open it means added revenue from tipping fees. I would have to believe that this added revenue would far extend the cost of the shredding. Remember also that 1) the debris from Japan will reach Kaua'i soon, and that means more filling of that landfill; 2) an economy grows, as the economy grows so does the amount of trash entering our landfill, which the economy seems to be on the right track; and 3) more diversion means these added tipping fees help balance the budget, and more funds are available to take care of the shredding or any other methods we have.

I hope that Mr. Kaeo is back up here again soon. I believe, Jay, or Mel, I think you put it to two (2) weeks you gave the Administration two (2) weeks was it to come back with their figures? I did not hear them answer. I think the Garden Island said his numbers were wrong, but I did not hear them come up with any added numbers. If I am correct, then I think you said, Jay, that you would give the Administration two (2) weeks to come back. Will this be on the agenda then in two (2) weeks?

Chair Furfaro: In a minimum of two (2) weeks or it might be before.

Mr. Mickens: Okay. That is my testimony, I appreciate it. Thank you very much.

Mr. Bynum: Thank you, Mr. Mickens.

The meeting was called back to order, and proceeded as follows:

The motion for approval of the committee report was then put, and unanimously carried.

Chair Furfaro: We are doing the communication from Mr. Rapozo on the committee for the sewer spill? Is that where we are at?

Mr. Rapozo: Yes, that is where we are at.

Mr. Bynum: We just approved the committee reports.

Chair Furfaro: We completed that?

County Clerk: Yes, Sir.

Chair Furfaro: Mr. Clerk, I would like to go back to the top of the item that we had, but before we do, I would like to ask the County Attorney to come up, if I may. Al, could you come up please?

There being no objections, the rules were suspended.

AL CASTILLO, JR., COUNTY ATTORNEY: Council Chair,
Councilmembers, good afternoon. Al Castillo, County Attorney.

Chair Furfaro: Thank you. I just want to check with you, before we give the Prosecuting Attorney six (6) minutes which they have a presentation for, is there any possibility that since you are processing special counsel that we should defer this item until special counsel is available to the County Prosecutor?

Mr. Castillo: Yes. I just received advice from the Office of Disciplinary Counsel. I had notified the Office of Disciplinary Counsel that P.O.H.A.K.U. matters were on the agenda, that the Prosecutor and the First Deputy from the Prosecutor's Office are here, and that they want to make a presentation. I did notify the Office of Disciplinary Counsel that I am in the process of wrapping up the negotiations with special counsel Gary Slovin. It is the recommendation of the Office of Disciplinary Counsel a few moments ago that all matters that involve P.O.H.A.K.U. will be deferred until such time that Mr. Slovin comes on board.

Chair Furfaro: But that choice is the Prosecutor's choice?

Mr. Castillo: That is the recommendation of ODC.

Chair Furfaro: Okay. Thank you. We will ask the Prosecutor's Office to come up now. Jake, are you coming up? Good afternoon, Shay, I am sorry it so late. I just wanted to check-in to see if you would like to exercise that option until they have identified special counsel for you, and then defer this item for a week?

Ms. Iseri-Carvalho: We are prepared to proceed. I have some questions, because on the break I had indicated to Mr. Castillo that we would want to call the Office of Disciplinary Counsel. He informed me that he, Mr. Castillo informed me that he was our attorney, he was here to represent us, we disputed that and indicated that based on the April 20 revelation to the County Council that he had a conflict that he was no longer our attorney, and we wanted to ensure that the Office of Disciplinary Counsel had given him permission to represent us so that we could discuss the matters that were left to discuss when you took a recess. We were waiting there to discuss this matter with the Office of Disciplinary Counsel. Mr. Castillo left the room and said he was returning, that he was finished giving us any advice, and that he was returning back to this Office. In the meantime, he returned back. As I asked him the reason for him leaving that we had not been able to finish our conversation. The reason for him still being permitted to represent us, he indicated he had a call despite the fact we were attempting to make numerous calls to ODC, that he received a call or spoke to a representative from ODC. I asked if he could call the ODC representative so we could have him as our counsel present while we were present so we could have an open discussion with ODC as to their recommendation. He refused to give me the name of the person he spoke to. He also said that he was, and I told him we wanted to proceed with information that the Council was, I am sure, interested in receiving. He indicated that he was going to speak to you and ask you to remove the item from the agenda, despite the fact that that advice was totally and adamantly opposed by our Office.

Chair Furfaro: Shay, that is as far as we need to go. I just want to make sure that I pose the question to you before I give Jake the floor to make your presentation. Do you wish me to defer this until such time that they have secured legal representation for you?

Ms. Iseri-Carvalho: What we would want to do in light of the time, because I also need to leave for another function, is that we have provided I believe to the Council our presentation. So you are well aware of what we are going to provide. It is an extensive presentation and in the time allotted we would not be able to complete the presentation, therefore we are going to send over a request to include the items that you have indicated were not posted items, so that we will be free to provide all of the information to the County Council regarding the P.O.H.A.K.U. Program. And so, in light of the time constraints...

Chair Furfaro: We are going to take a tape change so can you wrap it up?

Ms. Iseri-Carvalho: Sure. So in light of the time constraints, we will be forwarding over a request to include all of the items and do it in one (1) presentation as supposed to taking it piecemeal.

Chair Furfaro: Thank you. We are going to go on a tape change right now. We will stay in our seats. Shay, I have heard your answers, so I understand where we are at.

Ms. Iseri-Carvalho: Okay.

Chair Furfaro: We are in a tape change.

There being no objections, the meeting recessed at 4:21 p.m.

The meeting reconvened at 4:25 p.m., and proceeded as follows:

C 2012-170 Communication (05/17/2012) from Councilmember Yukimura, requesting Council approval of her request that the Board of Ethics conduct an investigation of whether violations of the Code of Ethics have occurred in connection with the creation and operation of the P.O.H.A.K.U. Program and related matters.

Chair Furfaro: Members, we are back in session. I just want to reconfirm what I am hearing. You are going to send me new correspondence for a new posting, and you are going to hold any presentation for today.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Yes. So if you would like to incorporate, well that is a totally different agenda item. I will just send you a new one (1).

Chair Furfaro: I will just wait until I see what you have written to me on the agenda item. I do want to again say that it is my role as well to make sure that I am very clear on what your posting request will be. For right now this item then, Clerk, will be deferred.

County Clerk: So noted.

Ms. Iseri-Carvalho: I am sorry...

Mr. Rapozo: I just had a question.

Chair Furfaro: You had a question? I am sorry.

Mr. Rapozo: You said that we had gotten a copy of your presentation, is that the one (1) you passed out earlier?

Ms. Iseri-Carvalho: No. That was the ones that we were going to...

Mr. Rapozo: So is there another one (1)?

Ms. Iseri-Carvalho: There is another one (1).

Mr. Rapozo: And then there is this one (1) here, a letter.

Ms. Iseri-Carvalho: No. This one (1). This is the fifty (50) page presentation, well twenty-seven (27) page but fifty (50) plus size.

Mr. Rapozo: You are going to turn that over today?

Chair Furfaro: Here is what I am requesting her to do so that we are all clear – I will have consultation after I see what she is requesting to be posted, and that material as I understand is your plan to make in that presentation?

Ms. Iseri-Carvalho: That is correct, but this is public testimony so you can receive this on the item.

Mr. Rapozo: I was not sure if I heard you correctly when you said that you had passed out the presentation and that we all had it. I was not sure if you were referencing this or this letter that we just got.

Ms. Iseri-Carvalho: There were two (2), so we have this one (1).

Mr. Rapozo: That is fine. I do not need to see it right now. The other question is, so you did not speak to ODC?

Ms. Iseri-Carvalho: We were not able to. Our attorney left to go speak to ODC according to his instructions. He did not tell us he was going to speak to ODC...

Chair Furfaro: That is the end of that, that is the end of that. I want to remind members here that whatever the outcome is here, we are all officers of the County. We need to make sure that we have continuity and we have done things with the right kind of communication. I do not know if nobody was present in that conversation, I look forward to her questions being posed to me for the next posting.

Mr. Rapozo: Mr. Chair. The reason I ask is that when we were waiting, I asked our staff what are we waiting for, and they said that the Prosecutor was on the phone with ODC. And that is why I am asking, I just wanted to clarify, and I understand you did not talk to them, I am good, thank you.

Ms. Iseri-Carvalho: Yes.

Chair Furfaro: Okay. Just so you are clarified, the communication that I got was they were attempting to speak with ODC. That is why I extended the recess three (3) times.

Ms. Iseri-Carvalho: We did not get that.

Chair Furfaro: It was posed that you were attempting to reach the ODC.

Ms. Iseri-Carvalho: Can I explain that? We did not get a live body. And so we got through the line and then we were not able to, we had to press several buttons, and there was not a live body available to speak with us.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: Should the Chair choose to post this agenda item regarding P.O.H.A.K.U., are you going to entertain questions from Councilmembers?

Ms. Iseri-Carvalho: I believe as I need to speak as I had been advised by the County Attorney's Office for today, to speak with the special counsel that they are attempting to secure, which is the only reason why we are deferring this item.

Mr. Bynum: Thank you.

Chair Furfaro: And so, we are back to my opening statement that there is some urgency for the County Attorney to secure that special counsel for you, and we will wait for the outcome of that. But I also want to point out that it is my understanding that Al is the County Attorney until such time that some special counsel has been secured for, and we hope to make sure you are communicated of that outcome as soon as possible.

Ms. Iseri-Carvalho: Yes. I believe, Council Chair, you had indicated that there had been some securing of special counsel, but we have not gotten any information with respect to any special counsel contacting us or who was contacted.

Chair Furfaro: When I got the email from Jake Delaplane today, this morning, I made a query, and I was told that they are working on the contract, verbiage, and housekeeping details of that contract. So that is what I was told.

Ms. Iseri-Carvalho: Okay. So nothing had been sent to us?

Chair Furfaro: No. I think that dialogue is still going on. They are on the housekeeping verbiage of that contract, okay? Vice Chair Yukimura.

Ms. Yukimura: May I ask why you need special counsel before you talk to us?

Ms. Iseri-Carvalho: Because we have been advised by our County Attorney to seek the advice of special counsel.

Ms. Yukimura: But, do you need it for this presentation?

Chair Furfaro: That is fine with me, JoAnn. That answer is fine with me.

Ms. Yukimura: Alright.

Chair Furfaro: I want to make sure you hear what I said again, every Member of this Council body is an officer of this corporation known as the County of Kaua'i. I want to make sure that we are moving with diligence in

reviewing issues about procurement and contract as those issues go. So on that note, I am going to ask for a motion to defer.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Chang moved to defer C 2012-170, seconded by Mr. Rapozo, and carried by a vote of 6-1 (Ms. Yukimura voting no).

Chair Furfaro: A special note to the County Attorney that when I get the request that have been made by the Prosecutor's Office, I would like to have an urgent review before I make the next posting.

RESOLUTIONS:

Resolution No. 2012-22, Draft 1, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO DEFINITIONS OF "SHALL," "MUST," AND "MAY"

Mr. Kualii: Mr. Chair?

Chair Furfaro: Yes?

Mr. Kualii: I was working with staff on some amendments, and we do need a little more time. So I would like for a deferral. Staff has checked on the time issues, and there are some other...

Chair Furfaro: Do we have another two (2) weeks that we can wait on this? Is that correct? We do, Peter? Okay. Understood. So this would be a deferral.

Mr. Kualii: Yes.

Chair Furfaro: That is what you are asking for? Vice Chair Yukimura.

Ms. Yukimura: So, did we go through a first reading on this already?

Chair Furfaro: Yes, we did.

Ms. Yukimura: We did. Okay. Very good. Thank you.

Chair Furfaro: Can I get a motion to defer this for two (2) weeks.

Mr. Kualii moved to defer Resolution No. 2012-22, Draft 1, seconded by Mr. Chang, and unanimously carried.

Resolution No. 2012-41, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO BUDGET PROCEDURES: Ms. Yukimura moved for adoption of Resolution No. 2012-41 on second and final reading, seconded by Mr. Rapozo.

Chair Furfaro: Is there any testimony? Seeing none, comments from the Councilmembers? Vice Chair Yukimura.

Ms. Yukimura: Mr. Chair, I have an amendment as to the wording. While it is being circulated, Mr. Chair, may I just say that it is an effort to make it clear to the public what the choice is. I hope our wording gets closer than the original language.

Chair Furfaro: So you have the floor, go ahead as it has been circulated.

Ms. Yukimura: I am proposing that the ballot form, or that the ballot question be articulated as such – “shall the provisions be deleted that allow the Mayor to submit essentially a second budget in the form of proposed modifications to the annual budget after the Council is more than a month into reviewing the first budget.”

Chair Furfaro: Discussion, Members?

Ms. Yukimura moved to amend Resolution No. 2012-41 as circulated, seconded by Mr. Bynum.

Chair Furfaro: Is there discussion on the amendment as circulated?

Mr. Rapozo: I do.

Chair Furfaro: Go ahead, Mr. Rapozo.

Mr. Rapozo: I just like the original language better; I think it is much cleaner and less confusing. That is just my opinion.

Ms. Yukimura: I appreciate your opinion. May I say something?

Chair Furfaro: You have the floor, go ahead.

Ms. Yukimura: Thank you. I thought so too, that originally that would be good language. But then I realized that the public did not understand what second chance meant, and what its implications were in the process of budget setting. The fact that we were already moving on, I mean second chance – why not? But that fact is that it comes after we are really into analyzing the first budget, and then it throws us on an entirely new budget; we experienced it in this last session after we have been going through a lot. This was an attempt to explain to the public the implications of this and the need for this amendment. If there is better wording I am open to it. But I think we should make it today somehow.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes?

Mr. Rapozo: The last sentence I guess after the comma, "after the council..." if you take that out, then it is okay. Then it is straight to the point, deleting the provision that allows the Mayor to submit a second budget in the form of proposed modifications.

Ms. Yukimura: May I?

Chair Furfaro: Yes.

Ms. Yukimura: The thing is that that last phrase does explain to people the implication. So let me try on the floor, if I may? "Shall the provisions be deleted that allow the Mayor, after the Council is more than a month into reviewing the first budget, to submit essentially a second budget." Would that be better?

Mr. Rapozo: I just do not see that the "more than a month" that part, because he could submit the supplemental two (2) weeks after. It just says that he has the ability to submit a supplemental.

Ms. Yukimura: We might need Jade's help here.

Mr. Rapozo: I do not like the "second chance" either in the first language. I think "shall the provisions allowing the Mayor the authority to submit a budget modification be deleted," to me that is straight to the point, something like that. It is what it is, not too many people fully understand the budget process to begin with.

Ms. Yukimura: Well, I like that simplicity, and the thing is that the Mayor can, he can submit a communication any time, that is not a problem. The problem has been that with these provisions that we are trying to delete, they have been treated as a second budget.

Chair Furfaro: Jade, may I ask you to go up to the microphone. Please introduce yourself. Just to give you an idea of what we are trying to do, and I do not know why we did not take it in consideration – allowing the Mayor to submit a revision to his budget after he submitted his original draft.

Ms. Yukimura: I think that is the implication.

There being no objections, the rules were suspended.

JADE FOUNTAIN-TANIGAWA, DEPUTY COUNTY CLERK: Jade
Tanigawa for the record.

Chair Furfaro: Jade, this question is dealing with the verbiage that is allowing or not allowing the Mayor to submit a revision or reforecast to his budget after he submitted his original draft. They are looking for the verbiage. Do you have the amendment sheet there?

Deputy County Clerk: Yes, I do.

Chair Furfaro: Council Vice Chair Yukimura, you have the floor.

Ms. Yukimura: Jade, Councilmember Rapozo has suggested simplifying the wording. We are trying to find a way to do that but still conveys to the public the implications of deleting this amendment. Actually, Councilmember Kualii just said if we can take out "more than a month" and just say "after the Council is well into" that would work with me. But it still leaves us with a lot of words. So Councilmember Rapozo suggested that we just delete the phrase at the very end "after the Council is well into reviewing the first budget," if we remove that then it will read "shall the provisions be deleted that allow the Mayor to submit essentially a second budget in the form of proposed modifications to the annual budget." Or, actually you had an even simpler one, Mel. You had it just delete...

Mr. Rapozo: The quote "second budget" is not what it is. You can construe it to be a second budget, but what it is is a budget modification, it is a supplemental budget. I think we need to use those technical terms in the Charter Amendment. We cannot be – Mel Rapozo (inaudible) a second budget – so let us put him in quotes. I think it is a budget mod, that is what it is. If we want to delete that, that is how I believe it should be worded – "Shall the provisions be deleted that allow the Mayor to submit a budget modification after the initial submission of the budget," something like that. That is it, we know what we are talking about.

Ms. Yukimura: I think that conveys to the public the problems with it.

Mr. Rapozo: Neither does this – "the second budget" – the average person on the street, hey do you know that the Mayor submits a second budget – no.

Ms. Yukimura: The thing is that to submit a second budget when the Council is still reviewing the first is what we wanted to convey.

Chair Furfaro: Let me say something here, in most companies you submit a budget, anything after that is a revision. Do we want the Mayor to be able to support a budget and then have the privilege of revising it as a second submittal? That is what is causing the issue, so let us stay focused on...

Ms. Nakamura: I have a suggestion.

Ms. Yukimura: Go ahead.

Chair Furfaro: No, I think I will tell her when to go ahead. I think I am still running the meeting.

Ms. Yukimura: I am sorry. Yes, you are.

Chair Furfaro: Did you get my point?

Ms. Yukimura: Yes.

Chair Furfaro: I thought it was pretty simple. You have the floor Councilwoman. Please make a recommendation.

Ms. Nakamura: Here is a recommendation – “shall the provisions allowing the Mayor to submit a budget revision well after the initial submission of the budget be deleted.”

Mr. Bynum: Delete it?

Ms. Nakamura: Be deleted, yes, that is right.

Ms. Yukimura: Mr. Chair?

Ms. Nakamura: Would you like me to repeat it again? “Shall the provisions allowing the Mayor to submit a budget revision well after the initial submission of the budget be deleted.”

Chair Furfaro: *Très simple.* Very simple, that is good.

Mr. Bynum: I second it.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: We are still open to discussion, you have the floor,
Mr. Rapozo.

Mr. Rapozo: Just the “well after” I am just uncomfortable. It is just “after.” He has a March 15 submittal, anything after that whether it is “well after,” “shortly after,” “soon after,” “thereafter,”....

Chair Furfaro: The next day?

Mr. Rapozo: It does not matter.

Chair Furfaro: It does not matter.

Mr. Rapozo: What is “well after”? It is very subjective. I think that it is very simple. We are trying to remove that ability to submit a revision to that March 15 submittal.

Chair Furfaro: Councilmember Nakamura, would you read that one more time please because it still has to go back and be modified in print before we vote on it. Could you read that again?

Ms. Nakamura: “Shall the provision allowing the Mayor to submit a budget revision after the initial submission of the budget be deleted.”

Chair Furfaro: You are now using the word I gave you earlier - revised, we are getting there. Jade, you have the floor, then Council Vice Chair Yukimura.

Deputy County Clerk: There is one concern I would like to raise. Just the fact that the Mayor at any time can submit amendments or revisions to the budget, so maybe that language would not be very clear and maybe would be misconstrued as he could not submit any amendments from this point forward; that would be my concern.

Chair Furfaro: Mr. Bynum.

Deputy County Clerk: Just that the language would not be...

Mr. Bynum: May I ask Jade a question?

Chair Furfaro: Yes, go ahead, please.

Mr. Bynum: Jade, in the Charter now, what is the term that is used for the budget modification?

Chair Furfaro: Supplemental.

Deputy County Clerk: Under Section 19.2 of the County Charter, 19.2(A), it says "on or before May eighth of each year, the mayor may submit one communication to the council which suggests modifications to the proposed annual budget ordinance. The communication shall describe the mayor's suggested modifications to the proposed annual budget and the reasoning justifying such modifications. (B) On or before the date specified by the mayor, the head of each county department...shall furnish the mayor with estimates..." and so forth.

But that is the specific language for the May 8 budget modification.

Mr. Bynum: What if the term rather than "revision" was "formal budget modification"?

Deputy County Clerk: Budget modification...

Mr. Bynum: Or just "budget modification"?

Deputy County Clerk: Yes, "budget modification" would be sufficient for me. I am not sure if that conveys Councilmember Yukimura's concern about the timeliness and maybe the Council's need to start the budget process and that kind of time crunch that we find ourselves in.

Chair Furfaro: Let us hear from Council Vice Chair Yukimura then.

Ms. Yukimura: Yes. Thank you, Chair. The thing about the word "budget revision" or "budget modification" is that most, unless people are familiar with the budget process like, Chair, you are so familiar with the whole hotel budget process, they do not understand the problem with coming in with modifications, why not make some suggestions for modifications? That is the very reason why we are proposing the deleting. Now the Mayor can always have communications with suggestions or additional information that we need to know or whatever, but we would not treat it like a budget modification where we would need five (5) votes to everything he has modified. It would come down to whether we want to add it in or not, whereas, I think that when he presents it to us it has a weight already and we have to do that five (5) to add, four (4) to delete. So that was my concern, and I just wanted to be able to have that be clear to the layperson that does not necessarily know budget. I think Councilmember Nakamura's comes very close, we are getting closer here.

Ms. Nakamura: I have another one (1).

Ms. Yukimura: You have another one (1)? Go ahead. I mean, excuse me.

Chair Furfaro: Why not let me do that, how is that?

Ms. Yukimura: I am sorry.

Chair Furfaro: You have the floor.

Ms. Nakamura: "Shall the provisions allowing the Mayor to submit a budget modification through a supplemental budget after the initial budget is submitted be deleted."

Mr. Rapozo: Bingo.

Mr. Chang: Ditto.

Mr. Bynum: Could you read that again, please?

Ms. Nakamura: "Shall the provisions allowing the Mayor to submit a budget modification through a supplemental budget after the initial budget is submitted be deleted."

Chair Furfaro: I would like to say that if we are happy with that piece, let us get it typed up, we will not act on it until we actually have the verbiage in front of us.

Ms. Yukimura: Thank you.

Chair Furfaro: Staff, could you take Councilmember Nakamura's verbiage, work it into a new piece, and may we come back to this, Rick? Let us go to the next item while that is being worked on.

There being no objections, Resolution No. 2012-41 was moved to the end of the agenda.

Resolution No. 2012-43, RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE KAUAI HISTORIC PRESERVATION REVIEW COMMISSION (*Stephen W. Long*): Mr. Bynum moved to approve Resolution No. 2012-43, seconded by Mr. Chang.

Chair Furfaro: Any discussion, Members? Dickie.

Mr. Chang: I just want to thank Mr. Long for bringing his wealth of knowledge in his travels to Kaua'i and volunteering. I think we all remember his interview; it was extremely impressive. I just want to thank him because he is going to be a big, big value for our community. He has seen a lot of things and it is, I am just very happy that Mr. Long is volunteering his time and his *mana'o* to our County. Thank you.

Chair Furfaro: Any more comments before I call a roll call.

The motion to approve Resolution No. 2012-43 was then put, and carried by the following vote:

FOR ADOPTION: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0,
RECUSED & NOT VOTING: None	TOTAL – 0.

Resolution No. 2012-44, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO RESTRICTING THE MAYOR'S POWER OVER DEPARTMENTS: Mr. Rapozo moved for passage of Resolution No. 2012-44 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 27, 2012, and that it thereafter be referred to the July 11, 2012 Council Meeting, seconded by Mr. Chang.

Chair Furfaro: Discussion? Mr. Bynum.

Mr. Bynum: Does part of this process send this to the County Attorney for legal review?

Chair Furfaro: Yes. It will require this being sent over for comments from the County Attorney.

Mr. Bynum: Thank you.

Chair Furfaro: Please so note that, Mr. Clerk. Vice Chair Yukimura.

Ms. Yukimura: I want to say that I have some real reservations because I think more than half of the cabinet is appointed by commissions, and to have direct supervision by a lay board of commission, a lay board that meets only monthly is very, very difficult operationally. Plus, it adds divisions into a body that should be more or less cohesive. And so, I think this is a really major shift in separation and delineation of powers under the Charter and needs at least a review by the Charter Commission, and some really lengthy discussion. Lay boards have a very limited accountability to the people of Kaua'i, and then they do not have the day-to-day presence to oversee day-to-day operations.

Chair Furfaro: Where we are at right now, this will be going to the County Attorney for comments. It will be going to public hearing for that discussion. I think one (1) of the big points that we have is the Mayor is an ex-officio of the Police Commission, Fire Commission, Planning Commission, and the fact of the matter is the opportunity poses itself for the Chief Executive of the Corporation of the County of Kaua'i to go to those Boards and Commissions of which he appoints the Members, they are confirmed by the Council, but he has the opportunity to express himself to those Boards and Commissions. The intent in those is obviously to take the politics out of the work. I think that is dialog that needs to go on as these things proceeds from first reading. I will reserve my comments until then as well, Vice Chair Yukimura, I will reserve my comments until then. Mr. Rapozo.

Mr. Rapozo: Thank you. Mr. Chair, I will agree to some extent with Councilmember Yukimura. But we have to remember that our Boards and

Commissions come under a Department, a Charter mandated Department that we spend a lot of money on. That function of the Boards and Commissions Office is supposed to be training our Commissioners. If in fact they are just there as lay people, then we do not need the Commissions, really; that is my point. The Commissions are there for a purpose, it is unfortunate that in the last few months we have seen their powers or attempt anyway to remove their authorities. This just clarifies what I think most people believe, that the Commissions will oversee the Department Heads; that is all this does. We will have the dialog, Sir, I am sure I will get a County Attorney's opinion that will say we cannot do it, but I think we let the voters decide on this one (1). Thank you.

Chair Furfaro: Members, again this is first reading. Is there any more dialog before I call for a roll call vote? Mr. Bynum.

Mr. Bynum: I think this is a very fundamental change and important. But there is an issue that we need to address by one (1) manner or another, and there may be other ways, and I think we will probably have a robust discussion about that. But, with this many County employees that are covered under Commissions or elected people, there are still Civil Service rules, there are still things that happen daily. And so, I certainly am going to keep an open mind. I know there is an issue, I think I will have to be convinced the Charter is the right place to address it. The reason I am discussing this at all at first reading is because we are under a time constraint to get this on the ballot, and because we need to have that kind of discussion. If that fuels people in the community to think about it who can give input at the public hearing, that will be helpful. I have been thinking about we needed clear memorandums of agreement about how the Mayor will interact with commissions when personnel issues arise, that kind of thing, to make sure that the Commissions are not removed from the process, but at the same time sometimes there is a need for an administrator of the County, and the Charter says the Mayor is the Administrator, to move quickly to avoid liabilities and having things escalate. Maybe the Charter is the right way to do that, but I hope we have a discussion about other options that are available to us because there clearly is a problem; but is the Charter the only way to deal with it. I am not clear on that yet. And so, I will certainly be giving my time and attention to this proposal so we can discuss it more robustly. I will be supporting it on first reading today to get that process under way.

Chair Furfaro: Any more discussion before I call a roll call vote.
Council Vice Chair.

Ms. Yukimura: While I have deep reservations about this I am going to be voting on first reading to pass it, because I do think that will move us toward more community discussion. I do think as Councilmember Bynum has said, that we do need to have discussions on this issue.

Chair Furfaro: Councilmember Nakamura.

Ms. Nakamura: I am also concerned about the parallel tract which is the special counsel that has been retained by the Police Commission to also address this issue. I am just, I think I would like to have further dialog about the timing of that process and this process.

Chair Furfaro: Any further discussion? Is there any testimony from the public?

The motion for passage of Resolution No. 2012-44 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 27, 2012, and that it thereafter be referred to the July 11, 2012 Council Meeting was then put, and carried by the following vote:

FOR PASSAGE: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0.
RECUSED & NOT VOTING: None	TOTAL – 0.

Resolution No. 2012-45, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO ADDITIONAL DUTIES OF THE COUNTY AUDITOR: Mr. Bynum moved for passage of Resolution No. 2012-45 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 27, 2012, and that it thereafter be referred to the July 11, 2012 Council Meeting, seconded by Ms. Yukimura.

Chair Furfaro: This is my particular resolution. I want to let you know...yes? We need to ask through process to have our County Auditor be able, when the Financial Reports come out, because we just got two (2) now for April and May, the reality is we need to be able to see a reconciliation of the key accounts and where they stand compared to their budget. This would allow the County Auditor to have access to the financial statement for the month in the month, and be able to present some kind of comparison to the Council on how our expenses are running against our budget, and how our trends are running against our forecast. I think the scope of this could be expanded to be in the Auditor's Department. As many of you know I currently do the month ends myself, but I think this is certainly something that the County Auditor can participate in for us. This is again first reading right. Thank you. Mr. Bynum.

Mr. Bynum: I want to thank the Chair for putting this on the agenda because the way it is framed is that it authorizes the Auditor to have other duties, but it requires the Council to pass a resolution. The County Auditor's Office was a relatively new creation by the voters through a Charter Amendment, and there are some real talented folks over there including a CPA and people with strong business and legal backgrounds. And so, to have that Office, which is an expense to the County, provide some other duties that are consistent with their Yellow Book and the standards for audits could be an opportunity for us. Thank you.

Chair Furfaro: Any more testimony? Roll call please.

The motion for passage of Resolution No. 2012-45 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 27, 2012, and that it thereafter be referred to the July 11, 2012 Council Meeting was then put, and carried by the following vote:

FOR PASSAGE: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST PASSAGE: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.
RECUSED & NOT VOTING: None	TOTAL - 0.

Resolution No. 2012-46, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE PREPARATION OF MONTHLY FINANCIAL STATEMENTS BY THE DIRECTOR OF FINANCE: Mr. Kuali'i moved for passage of Resolution No. 2012-46 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 27, 2012, and that it thereafter be referred to the July 11, 2012 Council Meeting, seconded by Mr. Chang, and carried by the following vote:

FOR PASSAGE: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST PASSAGE: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.
RECUSED & NOT VOTING: None	TOTAL - 0.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2438) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 3 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE REPRESENTATION OF CLIENTS WITH CONFLICTING INTERESTS BY THE OFFICE OF THE COUNTY ATTORNEY: Mr. Chang moved for passage of Proposed Draft Bill (No. 2438) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 11, 2012, and that it thereafter be referred to the Committee of the Whole, seconded by Mr. Bynum.

Ms. Yukimura: Mr. Chair.

Chair Furfaro: Yes?

Ms. Yukimura: I do not have a copy of that bill.

Chair Furfaro: We do not have a copy of the bill?

Ms. Yukimura: It is not attached to the agenda, or mine anyway.
Does anybody else have one (1)?

Chair Furfaro: We are looking for a copy of the bill, and again this is a bill coming from me. I think this is my attempt to deal with the challenges that we have with the County Attorney's Office at the times when the County Attorney's Office is trying to represent two (2) Departments that have conflicting interest. I think giving the Council that ability and being willing to understand that it is just not for the Council, this could be for other Departments that you could approve money when there is an opinion challenged by another Department. That would allow the County, Council, the Departments to have an opinion especially when we are dealing with something that is challenged between Planning and Housing.

Ms. Yukimura: Mr. Chair.

Chair Furfaro: Yes.

Ms. Yukimura: I am told that it is attached to the communication, so it is not at the end.

Chair Furfaro: Okay.

Ms. Yukimura: It is attached to Communication 2012-177. Is that how we always do first reading?

Chair Furfaro: I would appreciate it if you would have let me finish my presentation before...

Ms. Yukimura: I am sorry, I thought you were done.

Chair Furfaro: No, I just speak slow, it comes with being sixty-three (63) years old.

Ms. Yukimura: I am sorry.

Chair Furfaro: I will give you the floor now. That is the main purpose of why I am introducing this. I will leave it at that. You have the floor.

Ms. Yukimura: I apologize.

Chair Furfaro: Apology accepted.

Ms. Yukimura: Thank you. The bill is attached to the Communication 2012-177. Is that how we always do...Communication 2012-178, I am sorry.

Chair Furfaro: I think we are consistent with our practice in the past, but if you want to revisit that as an operational issue with the Clerk, we can do that.

Ms. Yukimura: No, I will just stand informed. Thank you.

Chair Furfaro: This is for first reading. If there is no further discussion...Mr. Bynum.

Mr. Bynum: I am sorry, just for the benefit of the public, it has been pretty standard practice by the Council to approve bills on first reading, to get them into the process, and get a full dialog to occur. That means there is public hearing, that it becomes a public document, but I have not personally really studied this bill yet. I am going to vote for it because it gets it in the process. It is often the case where members vote at first reading may not be indicative of their vote after all of the discussion, so I just wanted to do that disclaimer.

Chair Furfaro: And again just for the Council's note, this is why I voted silent on an item for dealing with the Mayor's restrictions, because I do feel another approach is when there is conflicts between Departments. That is why my vote was silent on number 4. Any further discussion?

The motion for passage of Proposed Draft Bill (No. 2438) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 11, 2012, and that it thereafter be referred to the Committee of the Whole was then put, and carried by the following vote:

FOR PASSAGE: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0.
RECUSED & NOT VOTING: None	TOTAL – 0.

Resolution No. 2012-41, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO BUDGET PROCEDURES (continued)

Chair Furfaro: Council Vice Chair Yukimura, I will recognize you with this verbiage here.

Ms. Yukimura: I believe the main motion is pending with my proposed amendment, and I will withdraw my amendment to allow Councilmember Nakamura to propose hers.

Ms. Yukimura withdrew her motion to amend, Mr. Bynum withdrew his second.

Chair Furfaro: Councilmember Nakamura, you have an opportunity to review this amendment.

Ms. Nakamura: I would like to propose this floor amendment as circulated. The language basically says “shall the provisions allowing the Mayor to submit a budget modification through a “supplemental budget communication” after the initial budget is submitted be deleted.”

Ms. Nakamura moved to amend Resolution No. 2012-41 as circulated, seconded by Mr. Bynum.

Chair Furfaro: Any discussion from other Members? You have a question, Council Vice Chair?

Ms. Yukimura: Yes, I am just wondering about the commas. “Shall the provisions allowing the Mayor to submit a budget modification through a supplemental budget communication after the initial budget is submitted be deleted.” How about, “shall the provisions be deleted allowing the Mayor...”

Chair Furfaro: You know what I am going to do?

Ms. Yukimura: Yes?

Chair Furfaro: I am going to take a recess.

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: See if you folks can massage this one. We will take a caption break.

There being no objections, the meeting recessed at 5:06 p.m.

The meeting reconvened at 5:38 p.m., and proceeded as follows:

Chair Furfaro: We are back from having a revision on the narrative for the amendment, the floor resolution, the amendment on Resolution No. 2012-41. I will recognize Councilmember Nakamura.

By unanimous consent, the previous motion and second to amend the resolution were withdrawn.

Ms. Nakamura: I would like to propose this floor amendment as circulated. It reads, "shall the provisions be deleted that allow the Mayor, after submitting the proposed annual budget, to submit budget modifications before the Council adopts the annual budget."

Ms. Nakamura moved to amend Resolution No. 2012-41 as circulated, seconded by Mr. Chang, and unanimously carried.

The motion for adoption of Resolution No. 2012-41, as amended herein to Resolution No. 2012-41, Draft 1, was then put.

Chair Furfaro: Councilmember Yukimura.

Ms. Yukimura: I just want to say Mahalo to Councilmember Nakamura and staff to arrive at the wording.

Chair Furfaro: Staff, I am going to let you know it has got a little star up there in the corner, thank you very much.

The motion for adoption of Resolution No. 2012-41, as amended herein to Resolution No. 2012-41, Draft 1, on second and final reading was then put, and carried by the following vote:

FOR PASSAGE: Bynum, Chang, Kualii, Nakamura, Rapozo,	TOTAL – 7,
Yukimura, Furfaro	
AGAINST PASSAGE: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0.
RECUSED & NOT VOTING: None	TOTAL – 0.

Chair Furfaro: This brings us, do we have a County Attorney present? Al, this is going to bring us to ES-551, and then we will have to come back to session here.

There being no objections, the rules were suspended.

Mr. Castillo: Council Chair, Councilmembers, good afternoon, County Attorney, Al Castillo. The next matter for your consideration is ES-551.

EXECUTIVE SESSION:

ES-551 Pursuant to HRS sections 92-4, 92-5(a)(4), and section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney, at the request of the Kaua'i Police Department, requests an executive session with the Council to provide

the Council with a briefing on the retention of special counsel to advise and represent the Kaua'i Police Department with regard to the Kaua'i Police Department's Administrative Review Board, Case Number NDA-12-06, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo moved to convene in executive session for ES-551, seconded by Mr. Chang, and carried by the following vote:

FOR CONVENING IN EXECUTIVE SESSION:	Bynum, Chang, Kuali'i, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST CONVENING IN EXECUTIVE SESSION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: For those in the audience, we will be going into executive session, then we will be coming out to complete this item in public. We are going to go into executive session, and may I ask for your diligence to go directly to the executive chambers. We have a Councilmember leaving us at 6:00 p.m. for an excused travel purpose.

There being no objections, the meeting recessed at 5:41 p.m.

The meeting reconvened at 6:26 p.m., and proceeded as follows:

(Ms. Yukimura was noted as excused.)

Chair Furfaro: Mr. Clerk, we are out of executive session.

C 2012-185 Request (06/07/2012) from the Office of the County Attorney, at the request of the Kaua'i Police Department, for approval to expend funds up to \$10,000.00 to retain special counsel to advise and represent the Kaua'i Police Department with regard to the Kaua'i Police Department's Administrative Review Board, Case Number NDA-12-06, and related matters: Mr. Kuali'i moved to approve C 2012-85, seconded by Mr. Chang.

Chair Furfaro: And discussion, Members?

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Go ahead, you have the floor.

Mr. Rapozo: I am going to be supporting this obviously. We had a discussion in executive session. I do want to say that once special counsel is, should this pass, once special counsel is obtained, that the Council be briefed as well at that time, which we typically do anyway. I just wanted to make that request for the record. Thank you.

Chair Furfaro: Any other discussion. If not, can I have a roll call vote.

The motion to approve C 2012-85 was then put, and carried by the following vote:

FOR APPROVAL: Bynum, Chang, Kualii, Nakamura, Rapozo, Furfaro	TOTAL – 6,
AGAINST APPROVAL: None	TOTAL – 0,
EXCUSED & NOT VOTING: Yukimura	TOTAL – 1.
RECUSED & NOT VOTING: None	TOTAL – 0.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 6:28 p.m.

Respectfully submitted,



Ricky Watanabe
County Clerk

/il

Attachments.